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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
CENTRAL VALLEY AUDITORIUM
SACRAMENTO, CALIFORNIA

TUESDAY, JULY 13, 2004

9:35 A.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson

Rosario Marin

Rosalie Mul

Michael Paparian

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Michael Bledsoe, Staff Counsel

Elliot Block, Staff Counsel

Marie Carter, Chief Counsel

Marshalle Graham, Staff

Albert Johnson, Staff

Jim Lee, Deputy Director

Howard Levenson, Deputy Director

Steve Levine, Staff Counsel

Nikki Mizwinski, Staff

Cara Morgan, Branch Manager

Pat Schiavo, Deputy Director

Sharon Waddell, Board Secretary

Scott Walker, Branch Manager

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APPEARANCES CONTINUED

STAFF

Tabetha Willmon, Supervisor, Local Assistance

Patty Wohl, Deputy Director

Kristin Yee, Staff

ALSO PRESENT

Ernest Briggs, Rancher, Landowner

Dr. David Conn, Director, Cal Poly Project Team

Evan Edgar, California Refuse Removal Council

Karen Gerbosi, Beebe Family Ranch

Mario Gonzales, City of McFarland

Anthony Lopez, City of McFarland

Leandra Swent, South Sonoma County RCD

Robert Swift, Sonoma County LEA

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Good morning, and
3 welcome to the July meeting of the California Integrated
4 Waste Management Board. We're glad you're here.

5 And we have speaker slips on the back counter.
6 If you would like to speak, please fill one. Put the
7 agenda item number on it, and give it to Ms. Waddell,
8 who's right over here. And she'll make sure that we know
9 of your wish to speak.

10 Would you please call the roll?

11 SECRETARY WADDELL: Marin?

12 BOARD MEMBER MARIN: Present.

13 SECRETARY WADDELL: Mulé?

14 BOARD MEMBER MULÉ: Present.

15 SECRETARY WADDELL: Paparian?

16 BOARD MEMBER PAPARIAN: Here.

17 SECRETARY WADDELL: Peace?

18 BOARD MEMBER PEACE: Here.

19 SECRETARY WADDELL: Washington?

20 BOARD MEMBER WASHINGTON: Here.

21 SECRETARY WADDELL: Moulton-Patterson?

22 CHAIRPERSON MOULTON-PATTERSON: Here.

23 And, again, I'd like to remind you to please turn
24 off or put on vibrate all cell phones and pagers.

25 Ex partes?

1 Ms. Mule.

2 BOARD MEMBER MULÉ: I'm up to date.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 Ms. Peace?

5 BOARD MEMBER PEACE: I'm up to date.

6 CHAIRPERSON MOULTON-PATTERSON: I'm also up to
7 date.

8 Ms. Marin.

9 BOARD MEMBER MARIN: So am I.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

11 BOARD MEMBER PAPARIAN: I spoke to John Cupps
12 about an upcoming conference that the Board may support at
13 the end of August.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

15 BOARD MEMBER WASHINGTON: I have none.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. Great.

17 Do you have a report today, Ms. Mulé?

18 BOARD MEMBER MULÉ: Thank you, Madam Chair.

19 I just have a few things. I had a busy month in
20 June, and I just wanted to share with the Board some of
21 the things that I've been involved with.

22 On July 17th and 18th, I attended the RMDZ Zone
23 Workshop in San Francisco. And it was very interesting to
24 learn more about that program and all the wonderful things
25 this staff is doing and that folks are doing around the

1 state to encourage economic development via this solid
2 waste and recycling industry.

3 On July 21st, I toured the Yolo County Bioreactor
4 Landfill along with Board Member Marin and staff. It was,
5 again, a very informative tour.

6 On June 22nd, I was the luncheon speaker at the
7 California Waste Association Sacramento Chapter.

8 And on June 23rd, I was the luncheon speaker at
9 the SWANA Landfill Symposium in Monterey where there were
10 about 300 attendees from all over the country.

11 On June 30th, I made opening remarks to the State
12 Agency Buy Recycled Campaign.

13 And on July 1st, I attended the Calaveras County
14 MOLO training and gave opening remarks there.

15 And yesterday, I presented some remarks to the
16 Unified Education Strategy Institute, which is very
17 exciting. And I know you've been involved in that, Madam
18 Chair. It's real exciting to see all the great programs
19 that school districts are doing to teach kids about source
20 reduction and recycling.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.
22 Appreciate it, yes.

23 I'm sure as our new members get out and about,
24 they're going to see what great programs we have and what
25 great staff. They've said that over and over to me how

1 impressed they are, as we all are with our staff.

2 Ms. Peace.

3 BOARD MEMBER PEACE: Last Wednesday, I attended
4 the Tire Product Commercialization Grant Program Workshop.

5 And then also on last Thursday attended the C&D
6 Ordinance Workshop.

7 Also, Mike Paparian and I attended the all-staff
8 meetings with the Legal Office, the Office of Public
9 Affairs, and the Policy Office. And thanks to everyone
10 for your ideas.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
12 Peace.

13 Ms. Marin.

14 BOARD MEMBER MARIN: Well, I wanted to do a lot
15 more, and it's so exciting to pick and choose.

16 But I had the privilege of going to see the
17 Bioreactor Landfill Tour in Yolo County, and that was
18 really an impressive tour.

19 I also went to visit the CR&R Company in
20 Stockton, California. And that was pretty impressive as
21 well.

22 I went to -- I went on a tour of our worm bins
23 around our building, and that was also very impressive.

24 I did go and visit the site, the Briggs site, the
25 tire site facility last week. And you know what's

1 amazing? Sometimes we look at these pictures, and the
2 pictures really do not show the picture once you're out
3 there, Madam Chair. It's a very interesting experience to
4 see how the tires were used for erosion purposes, and in
5 this particular site. And I know we're going to talk
6 about that. But I was very impressed. And I'm glad I
7 went to see it.

8 And then upon hearing during the last Committee
9 meeting that I attended a company in the city of Vernon,
10 California Fibers, they're the largest recycling facility
11 of carpet. So I went to see that as well. And I was also
12 extremely impressed of our companies and what they're
13 doing to recycle materials so it doesn't end up in the
14 landfills. And I was very impressed.

15 Next week we're going to be going to see La
16 Montana with Board Member Cheryl Peace. And I'm looking
17 forward to that. And we're going to be touring the
18 Sunshine Canyon and so forth.

19 But I am really looking forward to being out and
20 about, as many parts. I've talked to my staff. I want to
21 go to every single county in the state to go visit
22 programs that they have. And I'm really looking forward
23 to that. So it's been wonderful. I want to do as much as
24 I can. And my staff is attempting to have two or three
25 site visits on any one single day that we go to.

1 So thank you, Madam Chair.

2 CHAIRPERSON MOULTON-PATTERSON: It's great to
3 have you so involved. And having been to every county,
4 it's a big state. But it's worth it.

5 Mr. Paparian.

6 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

7 In late June, I visited the Gregory Canyon
8 proposed landfill site, and also at the same time met with
9 the Pala Indian tribe representatives to discuss some of
10 their concerns about the proposal.

11 I also attended the Tire Product
12 Commercialization Roundtable and the C&D Ordinance
13 Workshop.

14 I wanted to mention a couple of other things,
15 too. On electronic waste, the Legislature recently passed
16 and the Governor signed AB 901, which was an urgency
17 measure to change the implementation date of the e-waste
18 legislation to November 1st. So we will see retailers
19 collecting the fee on the covered products starting
20 November 1st instead of July 1st, as was originally
21 proposed.

22 There are some other outstanding cleanup
23 legislative issues, and those are being handled in a
24 separate bill, SB 50, which is moving along and hopefully
25 will pass this session and take care of a few of the

1 cleanup issues with the legislation.

2 But, once again, the staff is doing a remarkable
3 job both tracking and working on this legislation, and
4 more importantly, putting together a program which is
5 really going to be a model for the country.

6 On the environmental management system project
7 that I've been working on with CalEPA, in working with the
8 Secretary's office, we prepared and put forward an
9 environmental policy document for the building, for the
10 operations of this building. And it was very well
11 received. Secretary Tamminen actually took copies to a
12 cabinet meeting to share with other agency heads.

13 As part of this process, we're going to pursue
14 ISO 14001 certification. It's kind of an external
15 certification for how this building operates
16 environmentally. And I'll be bringing some material
17 forward to share with the Board about what that might mean
18 in terms of overall waste reduction strategies and other
19 strategies for the building.

20 And, finally, I'd like to thank Howard Levenson
21 and P&E staff along with Bobbie Garcia for their
22 willingness to follow up on the Landfill Compliance Study
23 on some of the issues that I've been concerned about
24 related to kind of filling in some of the gaps in that
25 study to give us a fuller picture of some of the options

1 that we may have moving forward.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr
3 Paparian.

4 Mr. Washington.

5 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.
6 Just a couple things.

7 I, too, want to thank the -- Mr. Lee and the tire
8 team. I did a dedication out in Los Angeles for the 92nd
9 Street Elementary School. We put down a track for them,
10 and we got street press on it. And the community is
11 really excited about that track. You guys did an
12 excellent job at working that out. I was very impressed
13 with the type of response, along with our Public Affairs
14 folks. And those who put that together did an excellent
15 job at putting that type of program together. And it's
16 really exciting see the community all come together to see
17 this new track that their kids will have an opportunity to
18 run on. So I was excited to see that.

19 And finally, Madam Chair, I met with Assemblyman
20 Juan Vargas and Senator Denise Ducheny's Office talking
21 about a relationship with the country of Peru. And we're
22 trying to work out some details with them on that. And
23 I'll get back with the Board on the progress of that.

24 Thank you.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you very

1 much.

2 I'm going to turn it over to Mr. Leary in just a
3 moment for his Executive Director report. However, I did
4 want to address one thing with everyone today. I know the
5 Governor's CPR plan has not come out. But since inside
6 CalEPA is doing previews of all of this and so forth, I
7 know there's a lot of questions with our staff and a lot
8 of uncertainty.

9 I just want to assure you that this is just a
10 recommendation to the Governor. There's a lot of
11 different testimony and different things that need to go
12 through. As you know, the Governor has appointed a
13 Commission to hold hearings throughout the state. But I
14 just want our staff to know that we all know what a great
15 job you're doing.

16 And I, and I know my colleagues, every single one
17 of them, are going to fight to keep this a public board,
18 because public participation is so important. I've never
19 been on any body that takes as much input from the public,
20 from all areas of the public, the environmentalists, the
21 citizens, the lobbyists, the stakeholders, the local
22 government, than this Board. And I think it's critical.
23 And I just want to address that and certainly want to keep
24 our staff in the loop as we learn things.

25 Mr. Leary.

1 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
2 Chair.

3 Good morning, Members, and thank you for your
4 comments, Members, particularly those comments related to
5 the positive work of our staff. That's always
6 appreciated.

7 I have a relatively short Executive Director's
8 report, the first item of which has already been mentioned
9 by a Board member or two.

10 On July 7th, the Board held a stakeholder
11 roundtable to gather input on issues related to the Waste
12 Tire Commercialization Grant Program and loans for waste
13 tire projects. Approximately 30 stakeholders participated
14 in the roundtable, along with Board Members Peace,
15 Paparian, and Mulé. Discussion topics included what has
16 worked well, areas of improvement, and what the focus of
17 the program should be, how the Board can best help
18 industry divert tires through a combination of grants and
19 loans, while meeting its fiduciary responsibility.

20 We heard from stakeholders that as a consequence
21 of a change in marketplace, there is a need to assess the
22 current and anticipated direction and the potential of
23 various market segments, such as rubberized asphalt,
24 concrete, civil engineering and molded products.

25 Questions were raised regarding the number of

1 tires diverted as a result of the grant program. And
2 staff was asked to compile statistical information, such
3 as state dollars spent per tires diverted on previous tire
4 grants.

5 There was a significant discussion over the pros
6 and cons of a loan grant funding for projects. Grants
7 have been helpful for businesses to take a risk and expand
8 into new product lines. However, general concern was
9 expressed there should be a mechanism to evaluate the
10 viability of the business as an ongoing concern and the
11 ability of an applicant to perform. That is, are they
12 accomplishing what was expected in terms of tire
13 diversion? Stakeholders also discussed the possibility of
14 some combination of loan and grant. For example, a loan
15 may be partially forgiven if certain performance levels
16 are met.

17 A transcript of the roundtable will be available
18 in about three weeks to Board offices and stakeholders.
19 We anticipate staff will present an agenda item in
20 September to discuss the options and seek direction on the
21 Waste Tire Commercialization Grant Program.

22 Next, I have four emergency waivers to report on
23 this morning. They were properly granted by our LEAs
24 pursuant to Title 14 Regulations, Section 17210.5.
25 Emergency waivers may be modified and/or extended, if

1 necessary, to assist in cleanup and diversion efforts.

2 They may also be rescinded if they are no longer

3 necessary.

4 Three of those waivers pertain to San Bernardino

5 County and the fire and bark beetle problems down there.

6 On June 28th, 2004, the LEA for the county of San

7 Bernardino granted extensions for three emergency waivers.

8 One, to expand the permitted tonnage, traffic

9 volume, and days of operation for the San Timoteo Sanitary
10 Landfill.

11 Two, to expand the permitted daily tonnage of the
12 Big Bear Transfer Station.

13 And three, to expand the permitted tonnage and
14 hours and days of operation at the Heaps Peak Transfer
15 Station.

16 All three emergency waivers responded to the
17 Governor's proclamation of the state of emergency for San
18 Bernardino County related to the catastrophic fires late
19 last year. The emergency waiver for Heaps Peak Transfer
20 Station also responds to the San Bernardino County Board
21 of Supervisors proclamation of a local emergency related
22 to the bark beetle infestation.

23 Efforts to properly manager fire, disaster,
24 debris, and vegetation infested with the bark beetles are
25 continuing. The LEA has extended the emergency waiver for

1 the San Timoteo Sanitary Landfill until midnight, October
2 31st, 2004; for the Big Bear Transfer Station until
3 November 18th, 2004. And the Heaps Peak Transfer Station
4 emergency waver is extended until midnight November 11th,
5 2004.

6 The fourth extension pertains to the city of Paso
7 Robles where the Board itself acting as the enforcement
8 agency has approved an extension to the emergency waiver
9 that was granted following the San Simeon earthquake.
10 This emergency waiver authorizes extended hours of
11 operation and increased maximum daily tonnage in the city
12 of Paso Robles Landfill to accommodate cleanup debris
13 related to the earthquake. The extension is for an
14 additional 90 days through September 29th, 2004.

15 Demolition and cleanup work are continuing in
16 Paso Robles in the aftermath of the San Simeon earthquake.
17 Earthquake-related debris received at the landfill
18 continues to be sorted for reuse, recycling, and/or
19 disposal. So far, 34 percent of the 780 tons of debris
20 received over the past six months has been diverted.

21 And then, finally, Madam Chair, I'd like to make
22 a modification to the consent calendar. The consent memo
23 that I sent you, I inadvertently misplaced Agenda Item 19.
24 Actually, I would like to propose Agenda Item 19 be added
25 to the other items for consideration for the Board for

1 consent.

2 And then I'd like to add Agenda Item 20, because
3 I misappropriately left it off, to be considered among the
4 fiscal items that enjoyed Committee consensus and will
5 receive an abbreviated presentation. If you'd like me to
6 or if you'd like to, Madam Chair, I can review the consent
7 calendar at this time.

8 CHAIRPERSON MOULTON-PATTERSON: That's okay.
9 I've got your correction.

10 EXECUTIVE DIRECTOR LEARY: Otherwise, I conclude
11 my report.

12 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
13 Were you finished, Mr. Leary?

14 EXECUTIVE DIRECTOR LEARY: Yes, Madam Chair.

15 CHAIRPERSON MOULTON-PATTERSON: Okay. So we're
16 going to go right into our agenda.

17 Just for review purposes, Item 14 has been
18 pulled.

19 Item 6 has been deleted.

20 Item 16 was heard in Committee only.

21 Items 1 through 5 and 7 and 19 are proposed for
22 consent.

23 Items 8 through 13, 15, 17, 18, and 20 through 22
24 will be heard by the full Board.

25 The Board will be taking a couple of short closed

1 sessions that are related to Items 9 and 13. We
2 anticipate there will be a short closed session after
3 those. And then we'll be having a closed session at the
4 end of the meeting today to discuss personnel issues
5 pursuant to Government Code 11126(a)(1) and litigation
6 matters Government Code 11126(e).

7 Today, we are going to be starting with Item
8 Number 11, after we take the consent calendar, if the
9 consent calendar is passed. This is an assumption.

10 Then we will hear 8 and 9 and 10 and then 12 and
11 14 today.

12 Tomorrow, we will hear Items 15, 17, 18, 20, 21,
13 and 22.

14 Did I goof those up in any way, Mr. Leary, or is
15 that correct?

16 With that, proposed for consent are Items 1
17 through 5, 7, and 19. Do I have a --

18 BOARD MEMBER WASHINGTON: Ms. Carter had a
19 question.

20 CHAIRPERSON MOULTON-PATTERSON: I'm sorry,
21 Ms. Carter. I didn't see you.

22 CHIEF COUNSEL CARTER: I was going to wait until
23 after you finished. I just wanted to also add to your
24 enumeration regarding closed session Government Code
25 Section 11126(c)(15).

1 CHAIRPERSON MOULTON-PATTERSON: (c)(15)?

2 CHIEF COUNSEL CARTER: Yes.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you so
4 much.

5 Do any members wish to pull any items on consent?

6 Seeing none, Mr. Washington or --

7 BOARD MEMBER MARIN: I don't want to pull any
8 items. But I want to know the fiscal item for consent,
9 Item 10, that was recommended for fiscal consent as well
10 as 20. Are those taken separately because they're fiscal?

11 CHAIRPERSON MOULTON-PATTERSON: Right. Usually,
12 what we do if it passed the Committee, we will hear it,
13 because it's fiscal. But it will be an abbreviated
14 report, unless members want more information.

15 BOARD MEMBER MARIN: Thank you.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

17 BOARD MEMBER WASHINGTON: Madam Chair, I'd like
18 to move the consent calendar.

19 BOARD MEMBER MARIN: Second.

20 CHAIRPERSON MOULTON-PATTERSON: We have a motion
21 by Mr. Washington, seconded by Ms. Marin to approve the
22 consent calendar.

23 Please call the roll.

24 SECRETARY WADDELL: Marin?

25 BOARD MEMBER MARIN: Aye.

1 SECRETARY WADDELL: Mulé?

2 BOARD MEMBER MULÉ: Aye.

3 SECRETARY WADDELL: Paparian?

4 BOARD MEMBER PAPARIAN: Aye.

5 SECRETARY WADDELL: Peace?

6 BOARD MEMBER PEACE: Aye.

7 SECRETARY WADDELL: Washington?

8 BOARD MEMBER WASHINGTON: Aye.

9 SECRETARY WADDELL: Moulton-Patterson?

10 CHAIRPERSON MOULTON-PATTERSON: Aye.

11 Okay. There's no continued items, we'll go

12 straight to Number 11.

13 Oh, no. Excuse me just a moment. We should have

14 a report by the Chair of our Special Waste Committee.

15 Ms. Peace, did you want to give any opening

16 remarks before I call on Mr. Lee?

17 BOARD MEMBER PEACE: Are we going to do all the

18 Special Waste now or just hear the --

19 CHAIRPERSON MOULTON-PATTERSON: Would you like to

20 give your report later?

21 BOARD MEMBER PEACE: Yeah. I'll give my report

22 later.

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

24 Mr. Lee, Number 11.

25 DEPUTY DIRECTOR LEE: Thank you, Madam Chair, and

1 good morning, Board Members.

2 Item Number 11 is Presentation of the
3 Comprehensive Assessment of the California Used Oil
4 Program, Fiscal Year 2001/2002 Fund Contract Concept 0-56.

5 Given that the report was not available for
6 distribution until just before the Waste Committee meeting
7 and the expected interest of the Board as a whole on this
8 item, the contractor will reprise his presentation from
9 the Special Waste Committee.

10 Earlier this week, staff or -- earlier, I should
11 say, last week staff provided the Board the consultant's
12 Power Point presentation from that meeting to facilitate
13 your review and the discussion this morning.

14 Staff proposes to receive input from the Board
15 and interested stakeholders today and then to return to
16 the Board in the fall probably in conjunction with our
17 annual Used Oil Fund allocation item with a response to
18 the report recommendations.

19 With that, I'll turn it over to Kristin Yee who
20 will make a short presentation and then introduce the
21 report contractor.

22 CHAIRPERSON MOULTON-PATTERSON: Ms. Yee.

23 MS. YEE: Good morning, Madam Chair
24 Moulton-Patterson and Board Members.

25 I'm here to introduce Dr. Conn. Dr. Conn is the

1 professor of Environmental Planning, and he's the
2 administrator at Cal Poly San Luis Obispo. He's the
3 Project Director of this assessment that the Board is
4 requesting on the Used Oil Program.

5 I just wanted to thank Dr. Conn for just the many
6 hours of discussions that we've had and kind of overseeing
7 this program that's been in existence for about a little
8 over ten years now.

9 Dr. Conn will give a brief overview of his
10 findings and recommendations right now.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.

12 Welcome, Dr. Conn. And thank you for coming
13 back. I appreciated your report in Committee.

14 (Thereupon an overhead presentation was
15 presented as follows.)

16 DR. CONN: Thank you. And good morning, Madam
17 Chair, and members of the Board. I appreciate the
18 opportunity to come and present this report to you.

19 You've got a new mouse this week, so I've got to
20 figure out how to work it. That works good.

21 --o0o--

22 DR. CONN: The purpose of today's session is to
23 provide an overview of some of the key findings and
24 recommendation's in the final report.

25 --o0o--

1 DR. CONN: I'll like to start just acknowledging
2 all the help I received with the report, the team at Cal
3 Poly, a very large number of interviewees whom we were in
4 contact with the study and a great deal of feedback from
5 the Used Oil Program staff. Worked very intensely with
6 the staff, and they were very helpful in having this
7 report go to completion.

8 --o0o--

9 DR. CONN: The goal of the contract, I'm sure
10 you're familiar with, is to take a look at this program
11 after ten years of operation and to produce some findings
12 and recommendations that we hope will be useful as the
13 program moves forward as you develop a work plan and
14 attempt to improve the program even further beyond where
15 it is today.

16 --o0o--

17 DR. CONN: The organization of the report that I
18 believe you now have had a chance to take a quick look at
19 includes executive summary. And I think the usual things
20 you'd find in the report, like going from the introduction
21 through to findings, analysis, conclusions, and
22 recommendations. And then some fairly extensive
23 appendices giving background that went into that previous
24 chapter.

25 --o0o--

1 DR. CONN: The methodology also was fairly
2 straightforward. It was a very broad study, and I'll just
3 draw attention to two items in relation to the caveat at
4 the end of that list there. One is that to some extent we
5 were aiming at a moving target. This study went over, as
6 it turned out, close to two years, I guess, a year and a
7 half. And during that time, the staff were not sitting
8 still. They were actually moving forward, as one hopes
9 they will with this kind of assessment, both on their own
10 initiative and also in terms of things that we were
11 telling them so that some of the improvements that we
12 would be looking for as a result of the report were
13 already underway, which is always gratifying.

14 The second caveat is that this was, again, a
15 broad study. We did not go into very precise detail with
16 each part of the report. There were many elements of the
17 report. For example, when we are interviewing, we did not
18 do statistically relevant samples. To some extent, the
19 findings are suggestive. And some of the recommendations
20 call for more research before significant action is taken.

21 --o0o--

22 DR. CONN: The program, I'm sure you're very
23 familiar with, was established as a result of the 1991
24 California Oil Recycling Enhancement Act. And I've
25 spelled out the intent there and will come back to it in a

1 couple of slides when we talk about the criteria used in
2 the report.

3 --o0o--

4 DR. CONN: The major elements of the program I'm
5 sure also you're familiar with. They are spelled out in
6 some detail and provide for the funding for the grant
7 programs, a very significant component, really the heart
8 of the program for the establishment of collection centers
9 and for education outreach, both centrally and by the
10 grantees.

11 --o0o--

12 DR. CONN: Here we come to the criteria. In
13 doing an assessment, of course, one has to have criteria
14 against which the program is being assessed. And we had
15 some difficulty spelling these out initially. The act, as
16 I've mentioned, is pretty specific in terms of what it's
17 looking for. And the first criteria that we describe is
18 instrumental objective, was achieving effectiveness and
19 efficiency in implementing those specific program elements
20 that the CORE Act asked for.

21 But in addition to that, the CORE Act says that
22 what it's really trying to do is to reduce illegal
23 disposal of used oil and recycle and reclaim used oil to
24 the greatest extent possible. So taking one step back
25 from the instrumental objectives, which are really the

1 means to the end, we start to look at the end with what we
2 call the program objective.

3 And then we go further than to that what we
4 called the ultimate legislative goal, because what we
5 think the Legislature had in mind -- and they sort of say
6 it in the Act -- is they're really concerned with
7 recovering valuable resources and avoiding damage to the
8 environment and threats to public health. And so we took
9 the assessment, sort of those three levels, and have drawn
10 some conclusions at each level.

11 --o0o--

12 DR. CONN: In terms of that first level, the
13 instrumental objective, we certainly feel that the program
14 has been successful. We have in place the recycling
15 incentive, the network of collection centers, outreach and
16 education, and substantial funding through the grants
17 exactly as the CORE Act required from the beginning.

18 There's one item that I've added on to that list
19 here, and that is one always hears complaints from
20 grantees that the paperwork is too onerous and they really
21 would, you know, like to see a much shorter or less
22 requirements for reporting and so on.

23 We took a look at the paperwork. The staff, we
24 feel, over the years has really made an effort to try to
25 simplify and clarify the paperwork and has been pretty

1 successful at that. And for the amount of money that
2 we're talking about, we didn't feel the paperwork at this
3 point is unreasonable. There's always ways one can
4 improve it, and we made one or two suggestions. But by
5 and large, we feel they have done a pretty good job of it.

6 --o0o--

7 DR. CONN: At the program objective level, we
8 feel, they've made good progress. The infrastructure has
9 been established. A lot of gallons of used oil have been
10 collected. And there appears to have been a steady growth
11 in the annual collection of used oil. I say "appears"
12 there, because one's always a little concerned about the
13 data here.

14 There's a fair amount of self-reported data.
15 When you really get down to the ground on this, they're
16 using dipsticks and various other means of collecting data
17 that aren't always the most accurate. So we're not
18 talking about precise to the nearest gallon. But we were
19 convinced by the staff, and we agree with them, that with
20 their attempts to not use one source of information but
21 try to put together different sources of information --
22 what we in the science community call triangulate -- to
23 try to ensure that one source of information will balance
24 another and so on, they have a pretty good handle on this.

25 So although we wouldn't swear to the last gallon,

1 we certainly feel the numbers they're coming up with these
2 days are at least pointing in the right direction,
3 certainly on a relative basis from one year to another.

4 --o0o--

5 DR. CONN: And then the third goal, the one we
6 call the ultimate legislative goal, we do feel they've
7 made progress. Clearly, any used oil gallon that is not
8 illegally disposed of but instead is reclaimed in some way
9 represents resources conserved and the reduction in the
10 risk of damage to the environment and to public health.

11 We're a little concerned, however, that -- this
12 is more difficult to assess, particularly in relation to
13 the improper disposal. Because before this program and
14 since this program, getting real solid evidence on the
15 damage caused by used oil is quite difficult. Typically,
16 it combines with damage from other sources. People don't
17 go out and look just for damage from used oil.

18 And so we were unable to -- basically, what it
19 comes down to is the knowledge base is somewhat limited.
20 But certainly used oil is intrinsically a harmful
21 material. There's no question about that. And so the
22 fact that California, like other states and like the
23 federal government, treat it as a hazardous waste and try
24 to keep it out of the environment, we certainly have no
25 argument. That is definitely worth doing. And we do feel

1 the program has made some significant contribution in that
2 area.

3 --o0o--

4 DR. CONN: In terms of recommendations, one thing
5 that we -- one comment we would have regarding the program
6 over its ten years is that -- and I think this is somewhat
7 inevitable. When the Legislature spells out rather
8 specific elements, the staff, particularly in the early
9 stages, tend to focus on those elements. And we feel they
10 did focus on the elements to some significant success.

11 But over the years, the emphasis may have gone
12 more on let's get the money out and make sure the grantees
13 have all the money they need, that they're doing the
14 paperwork and reporting and so forth. We would like to
15 after ten years -- and I think this is a very reasonable
16 thing -- to take a step back and say, okay, let's look
17 more broadly at what the Legislature was trying to
18 accomplish and the Board was trying to accomplish, and do
19 what we call here a strategic planning effort to really
20 focus on what is the ultimate goal here. Are the ways
21 that we're doing it right now really the best ways of
22 accomplishing that ultimate goal? And are there ways that
23 we can improve?

24 It's really a focusing. It's not they haven't
25 been doing this. It's really just sort of refocus. We've

1 done ten years. Now it's time to take stock and do that.
2 And we feel if they did a well-conceived planning
3 effort -- I say well conceived because some planning
4 efforts are less than that. But if it's well conceived
5 and involves not only the staff but significant
6 stakeholders, give them a chance to contribute what they
7 have to contribute here, what they know about the program,
8 we feel this will be really useful and would then provide
9 a framework within which the program could more
10 successfully move on.

11 --o0o--

12 DR. CONN: In terms of the specific kinds of
13 things we anticipate would be considered in such a
14 strategic planning effort, the first one the staff have
15 really already taken the initiative here. To start with,
16 the primary focus was very much on the do-it-yourselfers.
17 These are the people who both in California and in other
18 states are considered the ones most likely to illegally
19 dispose of used oil. And indeed, the work by, for
20 example, my colleague in San Francisco, who's been under
21 contract to the Board, certainly suggests that this is
22 what our major contribution to illegal disposal would come
23 from.

24 The focus has been largely on do-it-yourselfers.
25 But in recent years, they've started to broaden that

1 focus, and we applaud that effort and suggest that that
2 continue, that we look for other places where used oil
3 might arise.

4 We aggressively promote program improvements to
5 grantees. This sort of follows from the comment I made a
6 second ago about getting the money out and making sure the
7 grantees have what they need. But perhaps a shift in
8 emphasis that would be good would be to focus more on what
9 really works. In other words, to take a closer look at
10 who's being successful, who's being less successful, and
11 then to make more of an effort to get out information
12 about the better practices to all of the grantees, and
13 particularly those that aren't doing so well.

14 And, again, this is an area that the staff has
15 already taken some initiative in. I know at this point
16 they are looking at some of their less well performing
17 grantees and intending to focus more efforts in the way of
18 technical assistance and so on on those grantees. Again,
19 we applaud that. We feel that's exactly the right way to
20 go, and we would suggest they continue doing that in the
21 future.

22 In terms of outreach and education, this has been
23 shared between the state as sort of the central roll in
24 outreach and education and the grantees themselves. And
25 it sort of follows from a previous comment to the extent

1 that the grantees are left to their own devices, what you
2 end up with and what we have ended up with is a somewhat
3 fragmented set of efforts in outreach and education that
4 we feel could be made perhaps a little bit more coherent
5 with more involvement and a little bit more direction
6 perhaps from the center, at least in terms of providing
7 best practices.

8 The issue here is between the block grant
9 program, which is the major -- the center point of this
10 whole program, which block grants sort of by definition
11 are grants that are given to the grantees with very few
12 strings attached. The whole idea is give them the money.
13 They're the closest to the ground. They're the ones who
14 know the best how they can get their own constituents to
15 do the right thing. So we're weary about being overly
16 directive when you give a block grant. On the other hand,
17 there's nothing to stop us from giving advise, technical
18 assistance, suggesting best practices, and so on.

19 What we're suggesting here is the staff might
20 take a little bit more of a proactive roll in getting out
21 information and assistance and looking for the better
22 performers and encouraging those and looking for the less
23 good performers and helping them to do better.

24 --o0o--

25 DR. CONN: And then the last two that I've listed

1 here, this one at the top is giving more attention to what
2 might be called source or waste reduction, in addition to
3 promoting recycling. A lot of the used oil right now is
4 being -- once it's being diverted is being burned as a
5 fuel, which is a form of reclamation. A significant
6 portion is also being reclaimed for reuse as oil. And we
7 strongly encourage that every effort be made to encourage
8 more of it to be reclaimed. From a conservation and
9 environmental risk perspective, reclaiming used oil and
10 reusing it is a better option than burning it. So that's
11 already happening.

12 What we found that surprised us a little bit is
13 not much of an effort to date has been placed on trying to
14 discourage the generation of used oil in the first place.
15 And there are some ways of doing that. Everything from
16 seeking to reduce vehicle miles traveled, which is an
17 objective shared with some other agencies for other
18 reasons, to other means, like increasing the period
19 between changing oil, between oil changes.

20 And then to assist in that, particularly for
21 fleets and commercial operators, considering testing of
22 used oil, so that rather than just automatically changing
23 the oil every time the odometer hits a certain number, you
24 test to see whether it needs changing, and/or putting in
25 high efficiency filters which are likely to lead to longer

1 intervals before the oil will be found needing to be
2 changed. So those kinds of options are options that up to
3 now have not been given a great deal of attention, we feel
4 could be given more attention.

5 And then, finally, the recycling incentive of 16
6 cents a gallon we feel -- and to be honest, this is
7 something which probably needs more research than we were
8 able to put into it. We have to wonder a little bit about
9 it. Fifteen cents a gallon does not appear, from what
10 we've found out -- and again my colleague in San Francisco
11 found out from his work, does not seem to be enough to
12 make much of a difference to the general public. Most of
13 them don't ask for it when they bring their used oil back,
14 as far as we can find out.

15 A significant portion of that money actually ends
16 up in the hands of the operators of fast lubes and other
17 facilities where the oil is changed on the premises,
18 because they are allowed to receive that money for oil
19 that's changed on the premises. We have to wonder whether
20 that oil would have been illegally disposed of anyway and
21 therefore why the recycling incentive has to be used for
22 this purpose. It's not a huge amount of money. It's not
23 the largest amount of money that's expended that goes into
24 the grant program. But it is significant, and therefore,
25 we've put this recommendation in.

1 So with that, there are lots of other
2 recommendations. There are approximately 63 of them, I
3 believe, in the report. And these are aimed at different
4 levels. Some of them could be implemented and, indeed,
5 are being implemented in some cases by the staff. Others
6 would require Board action. Others might require
7 legislative action.

8 So with that, I'll end my presentation. And if
9 there are any questions, I'll be pleased to try to
10 respond.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you, Dr.
12 Conn.

13 Questions?

14 Mr. Paparian, Ms. Peace, and Ms. Marin. Okay.
15 Go ahead.

16 You're number one on my chart, which is what I
17 have to go by.

18 BOARD MEMBER PAPARIAN: First of all, we're
19 starting to set a pattern here of really good consultant
20 reports. I think we had one on the RAC Program a couple
21 months ago, and this one I think is just outstanding from
22 looking at it.

23 One of the things that's in the report sort of a
24 little bit explicitly, a little bit between the lines, is
25 that the Oil staff seems to feel overworked,

1 unappreciated, and perhaps somewhat neglected by the Board
2 with no one really taking a particular interest in
3 ownership from the Board level of the program. And I just
4 want to assure the oil staff that they are well
5 appreciated. And perhaps a lack of attention is
6 reflective of the good work that they're doing, rather
7 than a disinterest in the program. I think the staff has
8 done a fantastic job.

9 One of the things that I think we can do, as the
10 Board, is focus on our State Agency Buy Recycled Campaign.
11 I know that in looking at some of the numbers from there,
12 the Highway Patrol does a great job using re-refined oil.
13 Some agencies drive millions of miles and based on their
14 reports don't seem to ever change their oil, which I don't
15 think is accurate, but they're neglecting their
16 obligations. And I know at least one agency, you know, is
17 actively using re-refined oil based on some information.
18 So I think there's some things that we can do there to
19 help build the market, at least from state agencies, and
20 hopefully from other agencies and fleets.

21 In terms of the report itself, I think there's
22 some great stuff in the report. And I hope that as we
23 move forward in dealing with the report that we do focus
24 on the suggestions for a strategic plan, looking at things
25 like the program performance and local jurisdictions,

1 measuring successes, broadening our focus beyond the
2 traditional DIY-ers, and continuing to expand the venues
3 for re-refined oil and working on outreach and education
4 programs. So, you know, great report. Great staff. And
5 I think some great ideas for moving forward.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you,
7 Mr. Paparian.

8 Ms. Peace.

9 BOARD MEMBER PEACE: I guess I'd also like to say
10 that staff is very appreciated for all the hard work that
11 they do in this program. As the new Chair of Special
12 Waste, I hope that I can learn more about this program and
13 actually take more of a roll in it so you do have an
14 advocate here on the Board. I'm looking forward to
15 learning more about this program.

16 Also, I had a question. When you said that the
17 refined oil is being burned as bunker fuel, I was just
18 wondering, what is the reason for that? Is it the
19 perception that refined oil isn't as -- that it's
20 inferior?

21 DR. CONN: Well, there appear to be a number of
22 reasons for it, not least of which is re-refining
23 capacity. Since used oil is defined as a hazardous waste,
24 the facilities for re-refining have to go through quite a
25 set of hurdles to be permitted.

1 As I understand it, there is a new facility -- or
2 expansion of an existing facility here in the state that's
3 being proposed now for -- I think it's close to ten years.
4 It's quite a few years. It's taken a long time. I think
5 they're either at or close to being permitted. But it's
6 taken a long time to get the facilities up and underway.
7 That's part of it.

8 As far as the use of re-refined oil is concerned,
9 what I found quite interesting was that a good portion of
10 the re-refined oil actually gets used invisibly. So it
11 sort of bypasses the problem of any perception that might
12 be out there that is some way interior. A good portion of
13 it actually gets blended into the oil you or I buy without
14 even knowing it's in there.

15 And this is sort of a curiosity of the way we've
16 attempted to get more recycling in the past. We've
17 specified in government procurement regulations and in
18 other ways that you have to use re-refined oil. And it's
19 only because we've specified it in some cases that the
20 manufacturers have labeled it as re-refined oil. They're
21 not required to label it as re-refined. They've labeled
22 it simply to meet that government requirement, which is
23 sort of ironic that we've gone around in that circle. In
24 other words, if they got rid of the procurement
25 requirement and assuming that -- depending on the way the

1 markets operate -- I'll come back in a second and comment
2 on that -- all of the re-refined oil could invisibly
3 disappear into the oil you and I use every day. And the
4 issue of possible inferiority, which it isn't, of course,
5 would just go away.

6 The problem is we can't be sure what happens,
7 because the virgin oil producers have a vested interest in
8 making sure their oil sells. We're not quite sure how the
9 market would operate. If we took away that procurement
10 requirement, we're not sure what would happen. I suspect
11 people would be weary of taking that risk. For the time
12 being, at least, we have procurement requirements in
13 place. And those are driving the market for oil that is
14 labeled as re-refined.

15 One of the things you'll see in the report is
16 that we recommend the real emphasis go on the bulk users
17 of this material. The individual households, the people
18 that go into retail stores, they're the ones that are
19 typically more worried about the reuse. And since it
20 costs them pennies more to buy the virgin material, most
21 of them seem to want to buy the virgin material. You
22 don't see a lot of retail sale of re-refined oil.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you.

24 Ms. Marin.

25 BOARD MEMBER MARIN: Madam Chair, the only thing

1 that I would like to add is I'm very impressed, just like
2 my colleagues, with the report.

3 What I really would like to concentrate on is the
4 origination of it. If we could just reduce that -- and I
5 spoke to Mr. Lee about this. I'm concerned that some
6 people, for whatever reason, they seem to have this
7 tremendous need to change their oil every 3,000 miles,
8 even though they could very well wait more than that.

9 There are obviously engines that use -- I know a
10 BMW changes its oil every 15,000 miles. And I know that
11 that's a different kind of oil. It's a synthetic oil and
12 so forth. But I'm really interested in trying to work
13 with either the car manufacturers or the oil producers,
14 how can we prolong, you know, the usability of the oil so
15 that there is less of it to begin with so people don't
16 have to change it. And maybe work with the Jiffy Lubes
17 and so forth. So if somebody comes in and says, "I need
18 to change my oil," and they've only had 2500 miles, they
19 say, "You really don't need to change it." I don't know
20 that Jiffy Lube would do that.

21 But if what we're attempting to do -- and it
22 seems to me that the Jiffy Lubes of the world would want
23 to be in partnership with our goal, which is to reduce it.
24 In the end, we all benefit by that. That maybe, Madam
25 Chair, we can begin to address that in a different way so

1 we go at the core problem, and that is the use of it.

2 So I'm really -- I was very impressed with your
3 report. And I think that it gives us an area where we can
4 begin to focus and channel our resources on that
5 origination, which is, to me, I think where it really
6 needs to begin.

7 Thank you, Madam Chair.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,
9 Ms. Marin. Excellent point.

10 And Dr. Conn, again, I thank you very much. And
11 as I said in Committee, I was really glad to hear you say
12 that we don't require too much paperwork for the amount of
13 money. I know that is a concern with local government.
14 But it's good to hear that our staff have really
15 streamlined things. So thank you again, and I see no more
16 questions. So appreciate you being here.

17 DR. CONN: Thank you very much.

18 CHAIRPERSON MOULTON-PATTERSON: Mr. Lee.

19 DEPUTY DIRECTOR LEE: Can I make a few concluding
20 remarks and perhaps some preparatory remarks to additional
21 ones we'll deliver when we bring this item back before you
22 in a couple months with our Used Oil Fund allocation
23 item.

24 First of all, like I say, the staff concurs that
25 the work Dr. Conn did was very good. And I also wanted

1 the Board to recognize that staff put in a lot of time
2 trying to work with the contractor and make sure that he
3 was -- all the books were open and he knew all of the
4 issues so he could make objective analyses about those.

5 And I very much appreciated the comments from
6 Board Members Peace and Paparian in regards to the
7 feelings that some of the staff had expressed. Like I
8 said, it's been a difficult last few years with the
9 Governor's freeze, you know, with loss of staff to help
10 out other higher program areas in e-waste and the tire
11 program. It has been difficult to still get the job done,
12 you know, in the Used Oil Program.

13 Also the report did discuss this issue of kind of
14 getting the money out and using that phrase. And there
15 was kind of a pejorative connotation with regards to that,
16 again, I wanted to give you a different slant on.
17 Basically, the Oil Program, most communities would not be
18 out there if it were not for the Board support through
19 this grant program. Most municipalities have what they
20 perceive to be much higher priorities they need to deal
21 with. So getting the money out was something that was
22 kind of paramount, again, to make sure that we establish
23 the infrastructure that was necessary to move this program
24 forward.

25 With regards to the strategic planning, again, I

1 want to at least give you, at least, staff's preliminary
2 feelings, that we are not contemplating a tire-plan-like
3 planning effort, as we'll discuss later on in some of our
4 later agenda items this morning. That is a very large
5 commitment of staff time, which in that case is
6 statutorily directed. There is no similar statutory
7 consideration with the Oil Program. And more to the
8 point, we feel, you know, that we can address what we
9 agree are some long-range planning issues without having
10 to go to that level of program detail.

11 I think Dr. Conn expressed a lot of the facts,
12 and many issues that are already underway to improve
13 program efficiency to try to redirect how we're spending
14 our publication and education dollars, and how the
15 grantees are, you know, trying to put more of an emphasis
16 on program evaluation.

17 And then on the use of the bunker fuel that Ms.
18 Peace brought up, again, it's something we recognize right
19 now there is -- a lot of oil is going for that use.
20 That's an area where the used oil, waste oil can be used
21 without much additional processing. And, indeed, the BTUs
22 of the product has value.

23 We recognize some of the potential environmental
24 implications with regards to that. This may be an area
25 we're looking at to see how the product stewardship

1 initiatives that are working currently in paint and in
2 tires work out. This might be another candidate for that
3 type of solution. You know, basically trying to get the
4 manufacturers to do a better job of accepting more of the
5 waste oil, perhaps, as part of their crude or feed stock.
6 There are barriers to overcome in that particular area.

7 So, again, like I said, just a brief preview, and
8 we'll emphasize more on those points when we come back
9 before you later this year.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
11 Lee.

12 And with that, we will go to our Sustainability
13 and Market Development section of our agenda. And
14 Mr. Paparian is the Chair of that new Committee.

15 Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

17 Very briefly, the Sustainability and Market
18 Development Committee heard seven items. Six of them were
19 on the consent calendar and have already been dealt with.

20 But I'll just highlight one of those was the
21 Los Angeles RMDZ, and that during that presentation, we
22 learned some very interesting information about some of
23 the RMDZ recipients in the Los Angeles area who have been
24 very successful in their operations. And I think we can
25 claim a little bit of credit in assisting them in their

1 success in diversion and creation of jobs in Los Angeles.

2 One item is coming before the full Board out of
3 the Committee. That's the extrapolation item. It had a
4 two to zero vote, with myself not voting, because I wanted
5 to seek some modifications in the resolution on that. And
6 I'll talk about that in a minute when we get into that
7 item.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,
9 Mr. Paparian.

10 Mr. Schiavo, Number 8.

11 DEPUTY DIRECTOR SCHIAVO: Good morning. Pat
12 Schiavo, Diversion, Planning, and Local Assistance
13 Division. And Item Number 8 is Consideration of the Use
14 of Extrapolated Methodologies in New Base Year Generation
15 studies.

16 And Marshalle Graham will present this item.

17 MS. GRAHAM: Good morning, Madam Chair, Board
18 members.

19 At the May 2004 Board meeting, Board staff
20 presented an informational item, Agenda Item 30, regarding
21 the findings and recommendations from an independent
22 third-party review of new base year generation studies
23 that use an extrapolation methodology to estimate the
24 non-residential diversion. A synopsis of the project
25 findings is provided in the background section of the

1 agenda item.

2 At the conclusion of Board staff's presentation
3 in May, Board members raised the concern -- or the
4 question as to whether or not the Board should continue to
5 consider acceptance of such studies using extrapolated
6 studies -- extrapolation methodology. In response, Board
7 staff volunteered to present an action item at this Board
8 meeting.

9 Board staff has prepared three options for the
10 Board's presentations today. They are as follows:

11 Option 1, to continue to allow jurisdictions to
12 submit extrapolated new base year generation studies using
13 the Board's updated base year modification certification
14 request form as updated based on the recommendations
15 outlined in Agenda Item 30 from the May Board meeting;

16 Option 2, to direct staff to conduct a workshop
17 or workshops to solicit feedback regarding the continued
18 use of extrapolated new base year generation study
19 methodologies and come back to the Board with the results;

20 And lastly, Option 3, to no longer allow the
21 submission of extrapolated new base year studies.

22 Board staff is recommending Option 1, to continue
23 to allow jurisdictions to submit extrapolated studies
24 using the Board's updated certification form.

25 Board staff recommendation is based on two

1 things. First, the feedback received during the two-year
2 peer review and testing period for the Board's diversion
3 study guide, which specifically addressed accuracy issues
4 related to extrapolated methodology and resulted in the
5 Board's original development of the certification form.

6 And, secondly, Board staff's recommendation is
7 based on the aforementioned independent third-party review
8 of such studies. As was presented to the Board in May,
9 this independent third-party review addressed accuracy
10 issues observing most of the 20 extrapolated new base year
11 studies reviewed.

12 The majority of these issues related to specific
13 errors in or insufficient documentation of critical study
14 design, aspects such as sampling frame, sample selection,
15 non-response, auxiliary data, outliers, and the selection
16 and use of an estimator.

17 As recommended in the project's final report,
18 these accuracy issues are being addressed through
19 modifications to the Board's certification form.
20 Therefore, in cases where an extrapolated study is used,
21 the jurisdiction would be expected to submit for Board
22 review appropriate documentation related to these critical
23 study design components.

24 With this necessary information, Board staff
25 would be able to determine whether this study meets

1 acceptable statistical standards. In the absence of such
2 documentation, however, Board staff would have to
3 recommend adjustments to the study such that only actual
4 diversion study data collected and verified by Board staff
5 be used in the new base year and diversion rate
6 calculations. In other words, Board staff would recommend
7 a non-extrapolated calculation.

8 Additionally, although Board staff continues to
9 analyze new base year study data with respect to trends,
10 Board staff cannot quantitatively determine when and if a
11 jurisdiction should use an extrapolated methodology in
12 developing its new base year study design. Theoretically,
13 by using such a study design, jurisdictions can estimate
14 total diversion from their non-residential sector.

15 Although Board staff's analysis does suggest that
16 most jurisdictions should be able to adequately estimate
17 their diversion tonnage by taking a big picture approach,
18 such as collecting data from locally-run programs, local
19 recyclers, material handlers, large turf areas, and
20 through diversion surveys at the largest businesses, there
21 may, in fact, be cases in which an extrapolated
22 methodology is appropriate. As a result, some
23 jurisdictions may need to have the opportunity to develop
24 and submit a study design resulting -- using an
25 extrapolated methodology.

1 Taking into account the findings of this
2 independent third-party review of extrapolated
3 methodologies and new base year studies and Board staff's
4 analyses, Board staff is recommending that the
5 jurisdictions continue to be allowed to submit
6 extrapolated new base year studies. Jurisdictions would
7 also need to continue to provide the Board information
8 outlined in the Board's certification form.

9 Ultimately, it would continue to be a
10 jurisdiction's responsibility to assess the cost benefit
11 of using an extrapolated methodology in its new base year
12 study. Board staff would also continue to encourage
13 jurisdictions to evaluate the pros and cons to their study
14 design options with respect to their available resources
15 and the impact that the decision would ultimately have on
16 their program implementation efforts.

17 That does conclude my presentation, and I'd be
18 happy to address any questions you have.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you.

20 I don't see any questions at this time, but we do
21 have -- oh, Mr. Paparian, and then we have a public
22 speaker.

23 BOARD MEMBER PAPARIAN: Madam Chair, I'll wait
24 until after the public speaker.

25 CHAIRPERSON MOULTON-PATTERSON: Evan Edgar, CRRC.

1 MR. EDGAR: Madam Chair, Board Members. My name
2 is Evan Edgar. I'm the Engineer for the California Refuse
3 Removal Council.

4 We're supporting Option 1 today because it
5 provides flexibility to local government, but with the
6 verification and certification by Waste Board staff. In
7 the past, we were highly critical of extrapolation. In
8 the past, it was proven cases of Enron accounting when it
9 first came out before staff -- I commend them for finding
10 those errors -- were able to make adjustments along the
11 way.

12 We found early on that extrapolation led to
13 accounting of false source reduction and extrapolation
14 methods that increased the waste generation that people
15 were achieving AB 939 compliance with a calculator and
16 without quality programs. And there are many cases that
17 we would discover down in Carson and other cities that
18 were -- by various consultants that were brought up
19 throughout the last couple years.

20 Staff was able to conduct independent audits and
21 verification to discover the falsehoods of extrapolation
22 whereby communities were getting compliance and going
23 around the recycling facilities and the MRFs by having
24 phantom tons for source reduction without real tons for
25 diversion.

1 We're about real tons, real programs, by real
2 people, and would like to continue that trend here at the
3 Waste Board with Option 1. We believe Option 1 gives that
4 flexibility, for some consultants to do a good job on
5 extrapolation. We've seen some good case studies. And
6 with the good work of Waste Board staff on the
7 verification, we can see where things have been
8 overestimated on pallet use. So this will protect the
9 investment of the MRF operators and the programs that we
10 have out there designed to achieve AB 939 compliance
11 without a calculator but with real programs.

12 Thank you.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you,
14 Mr. Edgar.

15 Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

17 There have been some real problems in the past
18 with extrapolation. I think that a lot of local
19 governments have wound up spending a lot of money on
20 extrapolation studies for no real benefit, when they could
21 have done the same thing without spending the money,
22 gotten virtually the same level of diversion, and not have
23 had to invest so much scarce local resources into that.

24 I passed out a proposed change to the resolution.
25 It's the one with the yellow highlights. This is a

1 result -- I worked with Pat Schiavo and staff to really
2 try to get to what additional items could we put in here
3 so that staff could help local governments in pausing
4 before agreeing to go forward with an extrapolation, to
5 really decide whether it's the right thing to do to invest
6 their resources or not?

7 So this doesn't in any way prevent extrapolation
8 from going forward, but helps bolster our staff in working
9 with local jurisdictions to help them understand what it
10 is they would be getting into and whether it's something
11 that's really worthwhile for them or whether they could
12 save that money and perhaps do things another way.

13 So that's the purpose of this. It adds a couple
14 things. And I appreciate Pat and staff for helping draft
15 this. It adds a couple things about what jurisdictions
16 should consider before going forward with an extrapolation
17 study and then a little bit about what we would do in
18 terms of evaluating such a study.

19 CHAIRPERSON MOULTON-PATTERSON: Okay. Before I
20 go to Ms. Marin, so does staff have any problems with
21 these changes, or are they comfortable?

22 DEPUTY DIRECTOR SCHIAVO: No. We're comfortable.

23 Essentially, again, it just conveys to
24 jurisdictions they need to look at the big picture. They
25 need to think about cost benefit. And also it bolsters

1 support of us by encouraging that we get all the
2 information from them that needs to be accurate, and that
3 we will use the certification form in order to make the
4 recommendation to the Board. But it does not state that
5 the Board, you know, dictates what takes place.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you.

7 Ms. Marin.

8 BOARD MEMBER MARIN: Madam Chair, I was handed
9 this just as we were sitting down here. So while I agree
10 with the purpose and what we're attempting to do, I would
11 be somewhat concerned that having been the Mayor -- and I
12 made these comments during our Committee meeting. Having
13 been a Mayor and a Council member for a long time, I
14 believe in home rule. I believe that jurisdictions should
15 be able to make that determination on their own. And
16 while this does not necessarily dictate they should not,
17 it makes it very, very difficult.

18 What I would like, with the permission of the
19 Board -- I don't know whether the League of Cities had the
20 opportunity to review this before, Madam Chair. And
21 unless we have an absolute need to act on this, I would
22 love to consult with the League of Cities, Madam Chair.

23 CHAIRPERSON MOULTON-PATTERSON: Has Ms. Hunter or
24 the League seen this?

25 DEPUTY DIRECTOR SCHIAVO: They have not seen the

1 resolution language. I did talk with them regarding the
2 item coming forward, but not this specific language. This
3 just happened not too long ago.

4 CHAIRPERSON MOULTON-PATTERSON: They're usually
5 here if they have a problem with something.

6 BOARD MEMBER MARIN: I don't think they saw this,
7 Madam Chair.

8 CHAIRPERSON MOULTON-PATTERSON: So Ms. Mulé, do
9 you have any comment?

10 Any other comments by Board members on if you
11 want to hold this up?

12 Mr. Washington.

13 BOARD MEMBER WASHINGTON: Just to Mr. Paparian,
14 is there a problem with putting this over and letting the
15 League of City folks take a look at it?

16 BOARD MEMBER PAPARIAN: No. I'm fine with that.
17 I think this is something that everybody would support if
18 they look at it. I don't know if you want to do that
19 later today and see if we can get ahold of her and maybe
20 put it over.

21 CHAIRPERSON MOULTON-PATTERSON: We might call
22 her, and then we wouldn't have to put it over, you know,
23 for a month. You know, certainly, as a Mayor also, I
24 certainly am for local home rule, in most cases. But
25 Ms. Hunter has been very involved. And I know I was

1 stunned when I came on this Board and I saw this amount of
2 money that cities were investing kind of blindly in some
3 cases on these studies. So, you know, I think that they
4 would be happy with this, but I'm not sure. So let's do
5 that.

6 BOARD MEMBER WASHINGTON: Madam Chair, we have a
7 Board meeting tomorrow so maybe --

8 CHAIRPERSON MOULTON-PATTERSON: So we'll talk
9 with Ms. Hunter and the League and run it by her. Okay.
10 Good suggestion. Thank you.

11 With that, we're going to take a 15-minute break,
12 I think. And then we'll come back and do Number 9.

13 (Thereupon a recess was taken.)

14 CHAIRPERSON MOULTON-PATTERSON: I'd like to get
15 started. And, again, we continued Item Number 8 for some
16 more information.

17 And we're going to -- ex partes, Ms. Mulé.

18 BOARD MEMBER MULÉ: I just had a brief
19 conversation with Denise Delmatier with Norcal regarding
20 Item 8. Thank you.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Ms. Peace.

23 BOARD MEMBER PEACE: I have none.

24 CHAIRPERSON MOULTON-PATTERSON: I have none.

25 Ms. Marin, any ex partes?

1 BOARD MEMBER MARIN: I spoke to Denise Delmatier
2 for just a second regarding the budget.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. Have they
4 passed it?

5 BOARD MEMBER MARIN: No, they haven't yet.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you.

7 Mr. Paparian.

8 BOARD MEMBER PAPARIAN: None.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

10 BOARD MEMBER WASHINGTON: I'm up to date.

11 CHAIRPERSON MOULTON-PATTERSON: Okay.

12 With that, we'll go right to Item Number 9. And
13 I am anticipating a closed session -- short closed session
14 on this.

15 Mr. Schiavo.

16 DEPUTY DIRECTOR SCHIAVO: Item Number 9 is Public
17 Hearing and Consideration of the Imposition of Penalties
18 Against the City of McFarland Pursuant to Compliance Order
19 IWMA BR 03-01.

20 And this item will be presented by Nikki
21 Mizwinski.

22 (Thereupon an overhead presentation was
23 presented as follows.)

24 MS. MIZWINSKI: Good morning, Chairman, Board
25 members.

1 Yes, this is the public hearing, just as Pat
2 said, for the compliance order and penalties against
3 McFarland.

4 --o0o--

5 MS. MIZWINSKI: If after issuing a compliance
6 order the Board finds that the city failed to make a good
7 faith effort to implement the compliance order, then the
8 Board may impose penalties up to \$10,000 per day until the
9 compliance order is implemented.

10 --o0o--

11 MS. MIZWINSKI: What happens to the money? Well,
12 it's deposited in the Local Government Assistance Account
13 and is used solely to assist local government in complying
14 with diversion requirements.

15 --o0o--

16 MS. MIZWINSKI: We have three items for the
17 record. We have the Notice of Hearing, the Proof of
18 Service of Notice, and Agenda Item 9 with its attachments
19 1 through 4.

20 --o0o--

21 MS. MIZWINSKI: There are two issues before the
22 Board today. Did McFarland fail to meet the conditions of
23 the compliance order? And if so, what is the appropriate
24 penalty to be imposed for this failure?

25 --o0o--

1 MS. MIZWINSKI: Each compliance order has
2 conditions and a schedule. One of the conditions is that
3 staff will conduct a needs assessment meeting with the
4 city and outline the scope of a Local Assistance Plan.
5 One of the schedules is that the city as well as local
6 assistance staff must agree to the Local Assistance Plan
7 by 6-30-03.

8 --o0o--

9 MS. MIZWINSKI: Staff provided program
10 implementation assistance on 50 different occasions from
11 August 14th, 2003, to July 6th of 2004. Please see
12 Attachment 3 of this agenda item for the list of
13 assistance.

14 --o0o--

15 MS. MIZWINSKI: Failure to meet the order
16 conditions. Well, based on the city's quarterly Local
17 Assistance Plan updates and many request for program
18 implementation details, staff believes that the city
19 failed to demonstrate a good faith effort to implement a
20 majority of the Local Assistance Plan programs by March
21 31st, 2004.

22 You can view the city's quarterly Local
23 Assistance Plan updates in the Board members binders.
24 They are also summarized in the agenda item. The same
25 thing with the requests for program implementation

1 details. Those can be viewed in Attachment 3 of this
2 agenda item.

3 --o0o--

4 MS. MIZWINSKI: When we consider penalties, we
5 need to consider a good faith effort. Many of the local
6 assistance programs were not completed by the due date.
7 Some depended upon waste hauler provided recycling
8 services. However, the city could have implemented some
9 without a contracted hauler.

10 --o0o--

11 MS. MIZWINSKI: Also, Kern County offers free
12 outreach assistance. It will also determine the best
13 outreach materials, give you publicity, and provide all
14 copies of materials for all of its member cities. Staff
15 provided contact for Kern. As of July 9th, 2004, the city
16 has not contacted Kern.

17 --o0o--

18 MS. MIZWINSKI: Also, three entities offered free
19 program implementation technical assistance to the city
20 and their hauler. The city did meet with two of them in
21 June of 2004.

22 --o0o--

23 MS. MIZWINSKI: We also need to consider programs
24 implemented ahead of schedule. Local Assistance Plan
25 Program 3, the residential curbside green waste program --

1 and this is a change we found out late yesterday. The 500
2 residential green waste containers will be delivered
3 tomorrow, July 14th. Then they will need to be assembled,
4 and then they will kick off their program. For Local
5 Assistance Program 7, this also is a change. The pilot
6 curbside recyclables program will actually start
7 August 1st, and not July 13th.

8 --o0o--

9 MS. MIZWINSKI: We also need to consider
10 diversion rate. For 1999 and 2000, the diversion rates
11 were both 34 percent. This was the year that the city was
12 issued a compliance order. For 2001, the diversion rate
13 is 36 percent. For 2002, the diversion rate dropped to 25
14 percent.

15 --o0o--

16 MS. MIZWINSKI: There are three possible penalty
17 ranges, the maximum of which is \$10,000 a day from the
18 issuance of the compliance order, which was 1-14-03. The
19 three ranges are: Serious, which is up to \$10,000 a day;
20 moderate, which is up to \$5,000 a day. And by the way,
21 moderate is in bold-faced type because that is the option
22 that staff are recommending. Or you can have minor, which
23 is up to \$1,000 a day.

24 --o0o--

25 MS. MIZWINSKI: There are several reasons why

1 staff selected the moderate penalty range. The city's
2 failure to implement its source reduction recycling
3 element and Local Assistance Plan was not caused by
4 natural disaster, budgetary constraints, or work
5 stoppages. Also, three years ago, staff discussed program
6 performance concerns with the city, but the diversion rate
7 remains low.

8 --o0o--

9 MS. MIZWINSKI: Another reason is that mitigating
10 circumstance of delay in implementing programs is the
11 result of the city's effort to negotiate new services with
12 their hauler.

13 --o0o--

14 MS. MIZWINSKI: Staff is -- there are two options
15 that staff is recommending.

16 Option 1 is a one-time penalty for failing to
17 meet the March 31st, 2004, Local Assistance Plan due date.
18 This option is starred, because this is one of two options
19 that staff is recommending.

20 --o0o--

21 MS. MIZWINSKI: Option 2 staff is also
22 recommending, a daily penalty which would be assessed if
23 the city fails to complete past due Local Assistance Plan
24 programs by December 31st of 2004.

25 --o0o--

1 MS. MIZWINSKI: That concludes my presentation.

2 I am here to answer questions. Two of the city
3 representatives are here to answer questions. The hauler
4 could not be with us today, so they will not be here to
5 answer questions.

6 CHAIRPERSON MOULTON-PATTERSON: Is this Mr. Lopez
7 and Mr. Gonzales?

8 MS. MIZWINSKI: Yes. Mr. Gonzales is to my
9 right, and to his right is Mr. Lopez.

10 CHAIRPERSON MOULTON-PATTERSON: In what capacity
11 do you serve the city?

12 MR. GONZALES: Yes, ma'am. I'm the Interim City
13 Administrator. Mario is the recently-appointed Recycling
14 Coordinator for the city.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you for
16 being here.

17 Questions?

18 Mr. Washington.

19 BOARD MEMBER WASHINGTON: Thank you, madam Chair.

20 To Mr. City Manager and the new Recycling
21 Coordinator, how long have you been the Recycling
22 Coordinator now?

23 MR. GONZALES: It's been about three months, but
24 I do have --

25 BOARD MEMBER WASHINGTON: What happened to the

1 former Coordinator?

2 MR. GONZALES: There never one was for the city
3 of McFarland.

4 BOARD MEMBER WASHINGTON: So you guys have never
5 had a Recycling Coordinator?

6 MR. GONZALES: No.

7 BOARD MEMBER WASHINGTON: What's the population,
8 Mr. City Manager, of McFarland?

9 MR. LOPEZ: It's just a little bit under 10,000.

10 BOARD MEMBER WASHINGTON: Now, staff met with you
11 guys -- and when was it, Nikki? Back in -- that you guys
12 first met with them on this? I'm sorry. We don't have
13 the thing here and I was trying to read --

14 MS. MIZWINSKI: Yes. We met three years ago with
15 Gary Johnson. He was acting as the city's Recycling
16 Coordinator. He had many, many, many hats. But, yes, he
17 was the only one there. He's the one who signed
18 actually -- no. Never mind.

19 BOARD MEMBER WASHINGTON: And I guess, Madam
20 Chair, I'm just raising these questions because it sounds
21 like an Arvin, another type of situation we just had to
22 deal with. And it just concerns me that -- the City
23 Council, how many Council members are there?

24 MR. LOPEZ: We have five elected; one directly
25 elected Mayor, and four Council members.

1 BOARD MEMBER WASHINGTON: So the Mayor is elected
2 different from the Council members? He's not appointed by
3 his colleagues on the Council?

4 MR. LOPEZ: He's directly elected.

5 BOARD MEMBER WASHINGTON: How many of the Council
6 members have been there over four years?

7 MR. LOPEZ: Two of them.

8 BOARD MEMBER WASHINGTON: So the majority of
9 Council members are new Council members?

10 MR. LOPEZ: Yes, sir. They came on board in
11 March of last year.

12 BOARD MEMBER WASHINGTON: Well, this is just
13 tough, Madam Chair, because what it boils down to, it gets
14 back to the fact that the local Council members are the
15 ones held responsible for making sure this stuff gets
16 done. And then the staff, I guess you guys follow up.
17 How long have you been the interim City Manager?

18 MR. LOPEZ: I was recruited through the Public
19 Service Skills, which handles retired City Managers. And
20 I came on board in July of 2003. My objective was to come
21 on board for a two- to three-month period of time while we
22 assisted them in recruiting for a permanent City
23 Administrator. But due to the various items that the city
24 has handled, they've asked me to stay longer. And so now
25 the closing date for City Administrator is July the 16th

1 of this year.

2 BOARD MEMBER WASHINGTON: And -- I'm sorry. You
3 came from what organization?

4 MR. LOPEZ: Well, it's an organization where it
5 handles -- you know, it's a recruitment of retired City
6 Managers. And that's what I am, a retired City Manager.
7 I managed the northern, central, and southern California.

8 BOARD MEMBER WASHINGTON: Did they have an
9 Assistant City Manager in place?

10 MR. LOPEZ: No, sir.

11 BOARD MEMBER WASHINGTON: So it was the City
12 Manager, and that was it, in terms of the leadership roll
13 of the organization?

14 MR. LOPEZ: The city itself -- in fact, if it
15 wasn't for the recent merge of the Water District and the
16 city about a year and a half ago, prior to that, the city
17 staff was composed of the City Administrator, the City
18 Clerk, the individual at the Wastewater Treatment Plant,
19 and one other individual.

20 BOARD MEMBER WASHINGTON: And then, Madam Chair,
21 what's the ethnicity makeup of the city?

22 MR. LOPEZ: The ethnicity makeup is approximately
23 87 percent hispanic, and I'm not sure --

24 BOARD MEMBER WASHINGTON: This is Arvin. You
25 know Arvin, the city of Arvin?

1 MR. LOPEZ: We know Arvin.

2 BOARD MEMBER WASHINGTON: You guys are kind of
3 like the same stuff going on here.

4 Wow. It's a tough situation, Madam Chair. I
5 mean, again -- and I don't know how far we're going,
6 because I think we're going to talk about it in closed
7 session. I'll stop there. I just want to get some detail
8 information as it relates to the city itself. Because,
9 again, I see a pattern.

10 And I think I raised this concern with Arvin,
11 that these cities are going to start coming forward. Once
12 you start going with one city, the next city comes forward
13 and they're going to keep coming. I'm not saying that you
14 guys saw that Arvin had to come before the Board with the
15 new City Council.

16 You know, it's a sad situation, because the
17 political reality of this is that when you have the type
18 of turnover with your Council members and those folks who
19 are your leaders, it's very hard to get to the bottom line
20 as to how we get this situation fixed. So I'm not holding
21 you guys accountable.

22 But, again, you know, what we have to deliberate
23 is what is reasonable and right. When our staff said, we
24 met with those folks. We told them it was coming, and we
25 were still ignored. You know, it's strange to me that the

1 city didn't have a City Manager or Assistant City Manager
2 in place who could continue once the City Manager is gone.
3 It's a tough situation.

4 Thank you, Madam Chair.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
6 Washington.

7 Before I go to Mr. Paparian, did you wish to make
8 a presentation or have any comments before the Board
9 questions?

10 MR. LOPEZ: Yes, if I may. I'd appreciate it.

11 CHAIRPERSON MOULTON-PATTERSON: Certainly.

12 MR. LOPEZ: Thank you, Madam Chairman and Board
13 members.

14 First of all, I also want to thank the Executive
15 Director, Mr. Leary, for providing -- we've been working
16 with Cara Morgan, Tabetha Willmon, and Nikki Mizwinski,
17 and they've been of great assistance to us, by all means.

18 I submitted a letter to them, and I believe you
19 have a copy of that. And there's several things I'd like
20 to highlight in my letter. In fact, what I did was
21 submitted a binder with backup, because I'm from the old
22 school that I need to prove what I'm referring to. And so
23 I submitted invoices and pictures and so forth.

24 But first of all, in my letter to them dated July
25 the 6th, I pointed out that I recognize that the

1 responsibility of AB 939 compliance falls on the city and
2 no one else. And I need to really make that clear. We're
3 not saying it's the hauler or anyone else. It's the
4 responsibility of the city.

5 Second of all, my 17-page letter that was
6 submitted to them with backup are facts, not to be
7 excuses, for the lack of compliance, but they were
8 concerns as to point out what has been happening with the
9 city of McFarland as to why focus was not placed solely on
10 the city's responsibility of AB 939.

11 And third of all, and most of all, I wish to
12 emphasize I was debating about contacting our Senator
13 Flores and our Assemblywoman and other elected officials
14 at the state, the federal level for letters of support.
15 But I felt personally that the facts that I presented are
16 the facts that I would ask the Board to judge and not
17 based on letters coming from other individuals at those
18 positions, because I feel that what the city has gone
19 through, what the city is doing, and what the city will be
20 doing, there's been a significant change.

21 The city of McFarland, when I came on board, once
22 again, as I said earlier, my objective was to be there two
23 to three months, help them find a permanent City
24 Administrator, and move on to my retirement. Well, due to
25 the complex situations that are faced there in the city of

1 McFarland, the Mayor and the Council asked me to stay
2 longer, even though it meant driving 90 miles one way from
3 home.

4 But, basically, in regards to the city, what's
5 been happening -- once again, they're not excuses. First
6 of all, in the past the City Council meetings used to last
7 15 minutes. That's what I was told. Well, I came on
8 board and the meetings have been going from 6:00 p.m. to
9 11:57 p.m. and around that time. My objective was I
10 wanted to present to them a number of issues that I felt
11 that were important that had not been addressed by the
12 city. And most of all, I wanted to give the elected body
13 control and possession of their city. That's why these
14 issues were being presented to them. That's what I was
15 working on.

16 One example was the purchasing procedures. They
17 had not updated their purchasing procedures since 1958.
18 And it's that type of a situation --

19 CHAIRPERSON MOULTON-PATTERSON: 1958?

20 MR. LOPEZ: Yes, ma'am. There was a great Chevy
21 that came out in '58, but anyway.

22 But in regards to a number of other things that
23 are related, their Municipal Code book and so forth had
24 not been updated.

25 I was contacted by the California Regional Water

1 Control Board as to violations. And so I was curious. I
2 called the Board and asked them, "Can you let me know how
3 many violations have there been within the last twelve
4 months?" Well, the byproduct of that was that I received
5 a two-and-a-half page of violations in regards to the city
6 of McFarland. Those items are being worked on also.

7 The grand jury -- when I got there, there was a
8 grand jury investigation. There had been 31 items on
9 their books pertaining to the city of McFarland. I
10 addressed all these items on behalf of the city.

11 The finances -- this was really interesting.
12 They had not had a budget for about two years. But one of
13 the things that -- why they could not come up with a
14 budget is financial records were missing. What had
15 happened is that the previous administration -- I'm not
16 judging them by any means. But they were not using
17 computers when it came to finances. It was all hand
18 entered in regards to their finances. And a lot of the
19 records could not be found. And that's why it wasn't
20 until April of 2004 that I was able to give them their
21 2003-2004 city budget.

22 The city of McFarland did merge with the
23 McFarland Water District, and it was finalized about a
24 year and a half ago. What happened also is, because they
25 had never had a software or computer software accounting

1 system, they went out and bought one about over a year
2 ago, but it was not specified for public finances. It was
3 more of a private enterprise. So conversion there took a
4 long time also in regards to, once again, coming up with a
5 budget.

6 There weren't any job descriptions for the
7 employees. The city personnel policies were not in place.
8 The general plan has not been updated. It will be updated
9 December this year finally. The city employees were not
10 trained in their positions. So it's taking that.

11 I also included in my report that I submitted on
12 July the 6th newspaper articles which back up what I was
13 saying.

14 The good thing about the city of McFarland -- two
15 good things that really stand out. One, 95 percent of the
16 employees, they want to learn more and they want to do
17 more. And that's exciting. And, personally, I haven't
18 seen that in years in regards to cities.

19 The other thing, the residents, they're darn good
20 people. As stated earlier, though, the makeup is 87
21 percent hispanic, a good portion of them directly from
22 Mexico. And it becomes a matter of -- also, the sad thing
23 about that city is that they have an extremely high
24 unemployment. And I've seen it in regards to percentages
25 up to 37 percent unemployment.

1 So when you have this type of situation and you
2 have housing that needs rehabs and so forth -- that's
3 another thing I've been working on in regards to economic
4 development and also rehab. But let me say, I don't want
5 to say "I," because it's really the staff. It's the staff
6 and the Council have been all backing us up in order to
7 progress with the city.

8 As we all know, when there's employment, a number
9 of social issues can be addressed at the same time. And
10 so that's why there's been this emphasis in regards to
11 what avenues can we look for in regards to seeking
12 employment or bringing in employers within the city.

13 The city has never had a redevelopment agency.
14 The city now is in the process of doing so. The city
15 right now -- Paramount Citrus has an old abandoned
16 building they use for storage. The city now say they'll
17 be meeting on July 22nd hopefully for the purpose of
18 finalizing. We'll be securing that building.

19 And the purpose of that building is to provide
20 child daycare facility, incubator offices to assist
21 individuals in starting their own businesses, a home
22 computer drop-in center with about 25 computers made
23 available to the residents, especially the youth on a
24 no-fee basis, job training programs, and various
25 educational programs, especially through contacting of

1 Bakersfield College. And I say these items, because
2 having worked with other cities, I'm used to
3 implementation of these programs. And that's why the city
4 has these activities.

5 Again, I would highlight unemployment. And I'm
6 proud to say now that this city has -- right next to the
7 city -- I don't know if you know where McFarland is. But
8 15 miles north of Bakersfield, right next -- the only
9 thing I knew about McFarland -- because I live in Fresno,
10 and then I used to work down in Southern California so I
11 used to come home on weekends -- is I knew McFarland has a
12 prison and they have a McDonalds and they have a dairy.

13 Well, in regards to the dairy, the dairy does not
14 really provide employment for the city residents. In
15 fact, the dairy has been a detriment, with all due
16 respect, in the sense of -- how should I say -- the
17 fragrance and also the dust at feeding time. And the
18 kids, for example, when they're out there playing baseball
19 or tee ball or whatever, they have to stop because of a
20 lot of the dust.

21 Well, the dairy -- the owner of the dairy now --
22 and the city did not persuade him by any means. He has
23 elected to relocate his cattle to Texas. And also he has
24 approached the city with the concept of annexing the
25 property. And the city has agreed. And they've given me

1 direction to proceed with that type of activity for the
2 purpose of commercial industrial properties. So that's an
3 exciting thing. That's a high -- how should I say -- a
4 probability in regard to future employment for the
5 residents.

6 With this type of a situation with the dairy
7 being converted to commercial industrial, I can see the
8 lowering of the unemployment. I can also see in regards
9 to serving as a regional basis. Kern County, itself, has
10 an 11 percent unemployment, which is double that of the
11 state of California. This type of activity is now
12 foreseen, because we are working extremely hard with the
13 dairy owners in regards to converting this to a one- to
14 two-year project.

15 I go back and I sincerely say these are not
16 excuses. These are only to show you that the city has
17 been active, and it is now working extremely active in
18 regards to AB 939. I have pointed out, I believe, it's
19 about 21 items as to what the city now is doing in regards
20 to AB 939.

21 First of all, when it came to the green waste, I
22 was really appreciative of the fact that Mario and I had
23 an opportunity to meet Cara, Tabetha, and Nikki on June
24 30th. As a byproduct of that, not only did we say we were
25 going to go out and purchase 500 green waste containers

1 for the implementation of the green waste program, but the
2 most important thing that came from that meeting was that
3 I just went ahead and just decided bite the bullet. Went
4 ahead and ordered the rest of the green waste containers
5 for the rest of the city. I ordered an additional 1700
6 containers. The 500 waste containers, which we ordered
7 the first time, are supposed to arrive tomorrow.

8 One of the things that I'm also doing -- or the
9 city's doing is because we have such a high unemployment,
10 we ordered the containers at a cost savings to us, and
11 that meant they are not assembled. What I've asked Mario
12 to do is to find me 10 to 15 people who are unemployed,
13 and we're going to pay them to assemble the containers.

14 Those are temporary jobs. But believe me, when
15 you're unemployed, temporary jobs help. So we're also
16 going to use those same individuals when it comes to the
17 rest of 1700 containers in order to assemble them.

18 The hauler that we have right now, we have met
19 with them. They have agreed they will be delivering -- I
20 mean, picking up the containers every Thursday. And the
21 implementation of the hauler -- green waste program,
22 Mario, what he's going to be doing is he'll be going out
23 with the hauler literally to explain to the people --
24 Mario is a long time resident to the city. People know
25 him. They trust him. And so we're first of all sending

1 out flyers that will be explaining the green waste
2 program. And yet at the same time when implementation of
3 the distribution of the green waste containers, you know,
4 Mario will be with them, with the haulers, and explain
5 also further to the people.

6 Some of the things we've done also is in regards
7 to the green waste containers, you talk about -- there is
8 mentioned about a fine. Okay. The city has been setting
9 aside \$1.15, I believe, every month in regards for the
10 purpose of purchasing green waste containers. The city
11 has accumulated around \$50,000.

12 In order to purchase the full amount of the 1700
13 or the 2200 green waste containers, the city has gone
14 ahead and committed \$70,000. So, thereby, the city was
15 making up the difference of \$19,442.02 in order to ensure
16 that the green waste program was implemented to its
17 fullest. I submitted pictures also of the green waste
18 containers.

19 Another thing that we've done also in regards to
20 the city of McFarland is that on the 15th of July is when
21 the Council meeting takes place. At that time there are a
22 number of urgency ordinances that are being presented to
23 the Council when it comes to the recycling program, the
24 green waste containers, and also construction and
25 demolition ordinances.

1 As we know, one can submit an ordinance to the
2 Council. You have the first reading. Then you have the
3 second reading. And the city of McFarland, they only have
4 meetings once a month. So that meant that, you know --
5 and then 30 days after the second reading it becomes into
6 effect. Well, in order to expedite the ordinance itself,
7 once again, in order to attempt to comply with AB 939,
8 they're being presented as urgency ordinances. Thereby,
9 all it's going to do is be presented to the Council one
10 time.

11 The other thing that we've done is that in regard
12 to a recycling program, we have kind of a different --
13 I've never seen a contract as such, to be honest with you,
14 with a franchise agreement, that is, as the one they have
15 in that city. It's a 20-year agreement given exclusive to
16 one vendor. And they didn't go out to bid, for whatever
17 reason. That issue -- I've already talked to the city
18 attorney. That issue is going to be reviewed. That has
19 to be reviewed, because --

20 CHAIRPERSON MOULTON-PATTERSON: Is your city
21 attorney a contract city attorney?

22 MR. LOPEZ: Yes. He also has admitted he's not
23 that familiar when it comes to these type of issues. So
24 we both agreed we'll look for somebody who specialized in
25 the field.

1 But what it comes down to is that at the present,
2 the hauler -- and I'm not saying bad or good. But the
3 hauler has an exclusive when it comes to the green waste
4 program and also when it comes to trash or refuse program.
5 But they don't -- do not have an exclusive when it comes
6 to the recycling program.

7 I asked the present hauler for a pilot program
8 pertaining to curbside recycling. They gave us a
9 proposal. The estimated cost to the city would be over
10 30,000, going with them. We contacted -- Mario contacted
11 Sunset Waste, Inc., I believe is the name of the company.
12 Sunset Waste. And what they do is that they serve the
13 city of Fresno, Parlier, and Visalia. And so I asked them
14 for a proposal for curbside recycling. They gave us a
15 proposal, provided us a great deal of data, written
16 information, accountability on a no-fee basis. So when I
17 weighed 30,000 versus no fee, I went ahead and went with
18 Sunset. They'll be implementing the program.

19 One of the good things that -- one of many good
20 things about Sunset is that not only will they be
21 addressing the regular recycling items such as the
22 aluminum and plastics and so forth, but they're also going
23 to be including picking up oil and batteries, which is
24 really outstanding, personally.

25 It is hoped that -- they're stating that they're

1 able to eliminate the drop-off centers, you know, by the
2 type of programs that they provide. On July the 2nd, I
3 gave the green light to the Sunset Waste Company to
4 proceed with implementation of the curbside recycling
5 pilot program.

6 Another thing that we're doing is that in regards
7 to the commercial, contacted -- once again, I asked Mario
8 to contact Sunset. And so what we have is on the 28th of
9 July, we'll be meeting with Sunset Waste Company for the
10 purpose of implementation of a pilot program pertaining to
11 commercial aspect. Because it becomes a matter that, once
12 again, I need to proceed further with that, and so on the
13 28th of this month -- and I included in my letter
14 attachments of copies of faxes between the city and Sunset
15 agreeing to the times and so forth, as far as meeting and
16 so forth.

17 The other thing we did is that, on a side line,
18 in order to reduce the waste hauling cost and hopefully
19 divert from the landfill, the city went out and we
20 purchased what's known as a G force. And a G force is a
21 manually operated trash press, which reduces the city's
22 waste hauling expense by about 40 percent.

23 What Mario did is he had that representative from
24 G force, he'll be going out there and showing, for
25 example, McDonalds, and other companies in regards to this

1 item.

2 It cost the city about 1,800. Mario has also
3 gone out and purchased -- and we should be receiving
4 hopefully within a week -- educational items that are
5 geared mainly for the youth. Bought pencils and other
6 items. And I also included a copy of the order form in
7 regards to this. So the city went out -- the expense on
8 that one was about \$2300.

9 Twice a year, the city of McFarland High School
10 does a cleanup event. What we did is that -- it wasn't
11 until about last fall that the city participated with
12 them. There are about -- I don't know how many kids are
13 involved. But they have quite a few kids who help -- 150
14 student that help out on that.

15 What we did, or the city did is -- in fact, I
16 submitted pictures. And yours truly was also there
17 helping on that one. And picked up refrigerators and
18 other items and tires and so forth. And I have to admit
19 there was a presumption when we give it to the hauler that
20 it was going to go for recycling. And we found out it
21 didn't after the fact. In the future, any cleanup
22 programs that we have --

23 CHAIRPERSON MOULTON-PATTERSON: Mr. Lopez, some
24 of our Board members have some real specific questions.
25 So if you wouldn't mind, I'm going to go to Mr. Paparian

1 and Ms. Marin.

2 Mr. Paparian.

3 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

4 MR. LOPEZ: I'm sorry. I just --

5 CHAIRPERSON MOULTON-PATTERSON: I appreciate your
6 presentation. I do.

7 BOARD MEMBER PAPARIAN: I looked at the franchise
8 agreement, and I agree that it's different than some of
9 the ones I've seen. And I'm wondering, is there a
10 representative of the hauler here?

11 MR. LOPEZ: To the best of my knowledge, no, sir.

12 BOARD MEMBER PAPARIAN: As I read it, it's very
13 general, but they do have a responsibility to assist the
14 city in meeting the requirements of the Waste Board. But
15 it sounds to me like they're not really assisting very
16 much. And I wonder if you can address that. I mean, are
17 you getting into it with them at that level, or what are
18 they doing to fulfill the contract?

19 MR. LOPEZ: Yes, sir. That's why -- in fact, we
20 even had a meeting where their attorney was present and
21 our city attorney was present. And then it became a
22 situation where no, you're responsible for the green waste
23 containers. Well, that's why I went ahead and purchased
24 them, for example, because I had to find a way of
25 expediting the situation in regards to AB 939. And,

1 hopefully, that will be settled later on between them when
2 it comes to the litigation aspect.

3 It's public information in the sense that I've
4 made the Council aware in Council meeting. The contract
5 is very vague as to, you know, the responsibilities, the
6 green waste items, for example, and other things. And so
7 now it becomes a matter that I believe the next step is
8 that we'll just be getting in regards to our city
9 attorney, and they'll be addressing that.

10 BOARD MEMBER PAPARIAN: Have you estimated the
11 value of the contract?

12 MR. LOPEZ: The value of the contract? Well,
13 I'll tell you what I did, is that at the last Council
14 meeting, I placed what's know as an RFQ, Request for
15 Qualifications, because I was going to see about in
16 regards to services when it came to green waste and other
17 things.

18 Their attorney submitted a lengthy report to the
19 Council about an hour before the Council meeting, and I
20 believe they also submitted one to the state here to your
21 agency. They estimated that if we were to go that route,
22 that they were looking at possibility of legal action
23 against the city in the amount of 458,000. So I believe
24 that's what the estimate is according to them right now.

25 But I do have to admit, I did tell them this.

1 And I said, "You know what? With all due respect, okay,
2 your 458,000 is cheaper than 10,000 a day."

3 BOARD MEMBER PAPARIAN: I agree it's very vague,
4 but there's some vague insurance requirements in here,
5 too. Does their insurance cover any of the, you know,
6 potential fines or costs associated with complying with
7 our laws?

8 MR. LOPEZ: No, sir.

9 BOARD MEMBER PAPARIAN: Okay. You've outlined a
10 number of things you're going to do with the green waste,
11 with curbside recycling, and so forth. And I'm wondering
12 from our staff, if they do what is being said that they're
13 going to do over the next six months, will that get them
14 on track, or are there other things that are outstanding?

15 MS. WILLMON: Yes. I'm Tabetha Willmon from
16 Local Assistance.

17 The city was put on their Local Assistance Plan
18 schedule that we had agreed to. And there are several
19 items that have come and gone that the city was supposed
20 to have done. And we are working with them. And,
21 actually, we've seen quite a bit of progress and
22 motivation to start implementing a lot of things here
23 within the last month and a half, two months. The city is
24 making a lot of progress.

25 They're also ahead of schedule on some of the

1 tasks and some of the programs, which is encouraging. But
2 I think for the most part from what we're seeing, aside
3 from one or two of the programs, that the city is working
4 with the hauler to expand their drop off. I think that
5 they are definitely on the right track and could get a lot
6 or most of these programs completed by the end of this
7 year.

8 BOARD MEMBER PAPARIAN: So if they're successful
9 in doing between now and the end of the year what's been
10 talked about, is there anything missing from what's been
11 described? Is there anything else that we should be
12 pushing them to do?

13 MS. WILLMON: Well, there are a couple of
14 programs that were included in the original Local
15 Assistance Plan that the city is working on. One of those
16 is the C&D ordinance. When we had done our site visit and
17 were looking at the different programs, the city permit
18 process for construction was to go through the county.
19 And we were under the impression that the county was being
20 more proactive. The city has now stepped up and they have
21 already drafted a C&D ordinance.

22 They are also looking at doing food waste
23 programs, which were not identified in the Local
24 Assistance Plan. So the city is beginning to look at
25 implementing the programs that were already due, and we're

1 seeing progress on that. They're also looking at
2 expanding beyond what's in the Local Assistance Plan.

3 Our concern is mainly keeping them on track with
4 the schedule that we had all agreed to so that we can
5 ensure that these programs continue to be implemented and
6 are progressing.

7 BOARD MEMBER PAPARIAN: Thank you.

8 CHAIRPERSON MOULTON-PATTERSON: Ms. Marin.

9 BOARD MEMBER MARIN: Madam Chair, I'm very
10 impressed by Mr. Lopez' presentation, and I think the city
11 should have hired you a long, long time ago. And if they
12 can, they should hire you to be their full-time city
13 manager from now on.

14 MR. LOPEZ: I appreciate that. They have
15 offered, but I said thank you.

16 BOARD MEMBER MARIN: You can't.

17 I'm familiar with the work that you did at the
18 city of Hawaiian Gardens and how you also, after a very
19 tumultuous change, you were able to come in and put some
20 peace in there and really generate some compliance.

21 I have to applaud what you have been doing since
22 you got there, and especially in the last couple of
23 months. I know that with the problems that the city was
24 experiencing, that there were a lot of priorities, one
25 being AB 939.

1 I'm concerned about your contract with the
2 hauler. Your city attorney should be able to get that
3 fulfilled. I mean, it is very clear. I read the
4 contract. I read all of your paperwork. So you have a
5 very good case. They should have. And it was interesting
6 in the letters that I saw from the attorney himself that
7 the attorney for the hauler, that he was saying that they
8 had been doing all of this great work, you know, and then
9 what happened? All of a sudden the city wasn't complying.

10 And it is their responsibility, as far as I'm
11 concerned, especially with this contract. They assume the
12 franchise further agrees at their sole cost and expense
13 and throughout the term of this contract to do the
14 following, including green waste. So your attorney can
15 really have a field day with them, because obviously
16 they're not meeting their contract.

17 But nevertheless, what I want to say is that we
18 have a very serious dilemma before us. And you're
19 speaking to two former Mayors. We have a lot of
20 appreciation for the situation that you are facing. But
21 we're Board members. And I hope you appreciate that there
22 are 530 something jurisdictions out there, for which we
23 have to show consistency, that people take this seriously,
24 and that when they don't, we have a commitment to ensure
25 that the law is abided by.

1 So we have the dilemma, because the city,
2 unfortunately, prior to you being there and even for a few
3 months after you were there, showed no respect or regard
4 for what we had been working with them for. And while I
5 am very satisfied with the amount of progress that you
6 have now presented us, it still leaves the fact that we
7 had a deadline that went and passed where none of those
8 items were met, that we still have -- we would have to
9 come up with another deadline. And that poses the
10 dilemma.

11 And I'm sure -- I can feel that I am very --
12 what's the word? Divided. I feel your pain. I
13 understand there is -- you know, I understand what cities
14 go for. I used to be the President of the Mayors and
15 Council Departments for the League. So I understand that.
16 But we also have a job to do on this end, and I hope you
17 appreciate the dilemma that this Board faces.

18 Thank you, Madam Chair.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
20 Marin.

21 I see no other lights, so I would like to call
22 the Board into closed session.

23 BOARD MEMBER WASHINGTON: Madam Chair, just
24 before that, can I just ask Mr. Lopez one or two brief
25 questions?

1 CHAIRPERSON MOULTON-PATTERSON: Sure.

2 BOARD MEMBER WASHINGTON: Mr. Lopez, how long
3 will you be in your position with McFarland?

4 MR. LOPEZ: The closing date for the recruitment
5 right now is the 16th of this month. The Mayor has asked
6 if I will stay on at least as a consultant, which is
7 something out of the norm, because usually when you hire
8 an administrator, you know, you don't have a retiree City
9 Administrator as a consultant.

10 BOARD MEMBER WASHINGTON: But in this case it
11 might be worth it.

12 MR. LOPEZ: Yes, sir. I understand that.

13 BOARD MEMBER WASHINGTON: For your deliberations
14 in deciding whether you want to do that or not.

15 MR. LOPEZ: I would do it. Because, once again,
16 I have a real -- I get tired, because I drive an hour and
17 a half, you know, one way. And I'm getting up in age.
18 But --

19 BOARD MEMBER WASHINGTON: Where, as a consultant,
20 maybe you can make the City Manager drive to you.

21 (Laughter)

22 MR. LOPEZ: But anyway -- but I'll tell you, it's
23 like Hawaiian Gardens. The people are great. You know,
24 the employees -- 95 percent of them, I've never seen
25 people that wanted to learn more and do more. So, you

1 know, they're going to go do it. They're going to carry
2 it out. And the elected body, they feel they've learned
3 more now for whatever reason. I'm sorry to say that when
4 I hear a Council member tell me he's been on there for I
5 don't know how many years and he says, "Well, I never knew
6 this," I have a real hard time with that, because we have
7 a responsibility to always keep our elected officials
8 abreast and so --

9 BOARD MEMBER WASHINGTON: How many employees do
10 you have in the city of McFarland?

11 MR. LOPEZ: There's twelve employees, sir.

12 BOARD MEMBER WASHINGTON: Twelve in the city. Do
13 you guys have a Public Works Department or everything is
14 just --

15 MR. LOPEZ: That's what Mario falls under. Mario
16 falls under -- three-quarters of his job entails Public
17 Works Department --

18 BOARD MEMBER WASHINGTON: How many employees in
19 there? How many -- I don't mean to cut you off. How many
20 employees in that department?

21 MR. LOPEZ: Four.

22 BOARD MEMBER WASHINGTON: Four.

23 MR. LOPEZ: He's saying water, sewer, and streets
24 so --

25 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.

2 Before I go to Ms. Mulé, what year was the city
3 incorporated?

4 MR. LOPEZ: I'm not sure. In the '70s, I
5 believe.

6 CHAIRPERSON MOULTON-PATTERSON: Ms. Mulé.

7 BOARD MEMBER MULÉ: Thank you, Madam Chair.

8 Mr. Lopez, thank you for your presentation. I
9 know that you and your staff have had your share of issues
10 to deal with.

11 You know, I've read through every single document
12 that you sent us and staff's report as well, because this
13 is a very serious matter. And I do want to echo the
14 comments of my other Board members as well. You know, you
15 just had your share of issues thrown at you, and you've
16 had your challenge to try to prioritize and address them.

17 The question that I have, though, is considering
18 the fact that you did work with our staff and you did have
19 a clear identification of tasks to be performed and a time
20 line in which to complete them, the question that came to
21 mind, to me, is as I read through all of this is, why
22 hasn't this city started on some of these items sooner?

23 And like, for example, another question that I
24 have that goes in line with this is, you know, the city
25 has yet to contact Kern County for assistance with

1 education and outreach. So I do have a lot of questions
2 like that.

3 And, basically, my question is why hasn't the
4 city started sooner? You've done a lot of work in the
5 last couple months. But, clearly, you met with staff a
6 while ago and had that Local Assistance Plan with, again,
7 a clear identification of the tasks that were to be
8 completed and then the time line. And so I just have that
9 question, I was hoping maybe you could help clear my
10 question up.

11 MR. LOPEZ: And I'm not trying to use it as an
12 excuse, because once again, there aren't any excuses.

13 I had meetings with the hauler. One of the
14 things that I did before you all -- in regards to Hawaiian
15 Gardens. And what happened there is that I started in
16 July or June of '98, and then a month later I got a letter
17 from this agency stating the city's being looked at for
18 violation of noncompliance of '95.

19 But one of the reasons -- what cured that as far
20 as the violations was that there was a strong hauler that
21 the city was working with. And this city with this
22 situation, with all due respect, we have met with the
23 hauler on several occasions. We tried to find what the
24 solutions. Who's going to handle what? But we got more
25 into the contract than as far as the activities itself.

1 To say why hasn't the city, I can't really -- all
2 I can say is the city considers this very important.
3 There's no doubt about it. Not only because of the
4 potential of the fine, but also because for the residents,
5 you know, for the environment and so forth. But it
6 becomes a matter of I can't give you a specific reasoning
7 in regards to why didn't we implement and why didn't I
8 recommend a Recycler Coordinator the first day I got
9 there. It wasn't until three months ago that I
10 recommended it to the Council.

11 CHAIRPERSON MOULTON-PATTERSON: Again, thank you
12 very much.

13 The Board will be going into closed session, and
14 I anticipate that we'll be coming out with any decision
15 right after. It will be a very quick closed session.

16 We will -- for those in the audience, we will be
17 taking up 10, 12, and 13 after a lunch break.

18 So if now we could go into closed session.

19 MR. LOPEZ: Madam Chair, can I mention just one
20 more item, please?

21 In my letter also, I am recognizing the fact
22 there is a possibility of fines to the city. I'm asking
23 if the Board would consider a fine -- or you know, instead
24 of pay now or something like that, where the money could
25 be utilized for the purpose of assisting in compliance of

1 AB 939 in McFarland.

2 And one of the things that I find that really
3 helps in regards to the small cities is that there's a
4 monthly newsletter. And I'm asking that you would
5 consider -- I don't know how -- for the monies to be
6 utilized towards that monthly newsletter for half a page
7 every month is dedicated for AB 939 activities.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you.

9 Ms. Peace.

10 BOARD MEMBER PEACE: I also had that question
11 going over this item with staff. I asked if the money
12 collected in the fine could be used to implement some of
13 your programs. Basically, they said statutorily that is
14 not -- we can't do that.

15 And maybe Mr. Schiavo would you like to, or
16 Mr. Block, would you like to --

17 STAFF COUNSEL BLOCK: Sure. Elliot Block with
18 the Legal Office.

19 Earlier in the presentation one of the sections I
20 think that was up on the screen was Public Resource Code
21 Section 41850.5 I don't actually have it in front of me.
22 It provides that the money from fines under the statute
23 would go into a fund that -- I should probably get a copy
24 of it. It essentially goes into a general fund for the
25 general benefit of jurisdictions, but not to go back

1 specifically to any one jurisdiction for their programs.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you.

3 One last question. Your Mayor, I know you said
4 two of your Council members have only been there since
5 March. How long has your Mayor been?

6 MR. LOPEZ: March.

7 CHAIRPERSON MOULTON-PATTERSON: He's one of the
8 new ones. And you said it was a directly elected Mayor.
9 Is it a paid full time position?

10 MR. LOPEZ: No, ma'am. They're all -- instead of
11 revolving, you know, a number of small cities, you know,
12 it's directly elected. But it's not -- time-wise and
13 pay-wise is equivalent to the rest of the elected body.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. Well,
15 thank you. And we don't anticipate keeping you too long.
16 We should be out in --

17 MR. LOPEZ: I would ask to keep in mind that,
18 like all small cities, we're waiting for the state budget.
19 And financially, we're not in the best, but --

20 CHAIRPERSON MOULTON-PATTERSON: We deal with a
21 lot of cities, and we've had a lot of cities work very
22 hard under very severe hardships. So thank you, but we
23 will consider that.

24 MR. LOPEZ: Thank you, all.

25 (Thereupon, the Board recessed into closed

1 session.)

2 CHAIRPERSON MOULTON-PATTERSON: The Board in
3 closed session reached a tentative decision to be followed
4 by a written decision within 30 days. On a 6-0 vote and
5 based on the evidence presented in today's hearing, the
6 Board determined that the city of McFarland failed to
7 comply with the Board's Compliance Order Number IWMA BR
8 03-01 and failed to make a good faith effort to implement
9 its source reduction and recycling element.

10 Accordingly, the Board determined to impose
11 penalties in the following amounts pursuant to Public
12 Resource Code Section 41850.

13 And, you know, I know you're aware, Mr. Lopez,
14 that the fines could have been up to \$10,000 a day.

15 Our fine immediately due and payable is 11,330.
16 Contingent penalty due in the event that the city of
17 McFarland fails to achieve by December 31st, 2004,
18 compliance with the Local Assistance Plan approved by the
19 city on August 29th, 2003, and that fine would be 36,960.

20 The Executive Director of the California
21 Integrated Waste Management Board shall determine whether
22 the city of McFarland has achieved this requirement by
23 December 31st, 2004. And also I believe you're going to
24 come back in three months and give us a little status
25 report. Is that correct? We'll get that on the record.

1 DEPUTY DIRECTOR LEE: Yes, Madam Chair.

2 CHAIRPERSON MOULTON-PATTERSON: If compliance is
3 not achieved by December 31st, 2004, the Board will
4 consider additional future penalties after an appropriate
5 hearing. And if you have any specific questions on
6 this -- as I say, it will be sent in writing. But
7 Mr. Bledsoe, where are you? Right behind me. He will
8 answer any questions that you might have. And with that,
9 the Board will adjourn until 2:15 for their lunch.

10 BOARD MEMBER WASHINGTON: Madam Chair, while
11 we're doing so, if I can just say to Mr. Lopez and the
12 city of McFarland, we have some of the most brilliant
13 people on our staff who can help you get to where you need
14 to be. We certainly hope that you take advantage of
15 working with our staff, and they can really help you get
16 there.

17 CHAIRPERSON MOULTON-PATTERSON: And we wish you
18 every luck. And like Mr. Washington said, we have very
19 talented people in our Local Assistance.

20 MR. LOPEZ: On behalf of the city of McFarland,
21 thank you very much. And the city of McFarland would like
22 to invite each of you to the city of McFarland where we're
23 implementing these programs.

24 CHAIRPERSON MOULTON-PATTERSON: We'd like to be
25 there. Thank you very much.

1 The Board will reconvene at 2:15.

2 (Thereupon a lunch recess was taken.)

3 CHAIRPERSON MOULTON-PATTERSON: I'd like to get
4 started.

5 Ex partes, Ms. Mulé.

6 BOARD MEMBER MULÉ: I'm up to date.

7 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

8 BOARD MEMBER PEACE: I'm up to date.

9 CHAIRPERSON MOULTON-PATTERSON: I'm up to date.
10 Ms. Marin.

11 BOARD MEMBER MARIN: I'm up to date.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

13 BOARD MEMBER PAPARIAN: I'm up to date.

14 CHAIRPERSON MOULTON-PATTERSON: That takes us to
15 our Special Waste section of the agenda. This afternoon
16 we're going to be doing 10, 12, and 13. And we will need
17 a closed session after probably 13.

18 Ms. Peace, would you like to give your report
19 now?

20 BOARD MEMBER PEACE: Of the items that we heard
21 on the Household Hazardous Waste Grant Award, Item Number
22 10 had full Committee support. But in sticking to the
23 Board's long-standing policy of not placing fiscal items
24 on consent, it will be heard by the full Board.

25 The Committee pretty much seemed to be in

1 agreement regarding the Tire Program when it comes to what
2 changes we should make in next year's plan and what needs
3 to be dealt with in the next revision of the Five-Year
4 Plan. We'll get into those details in Item Number 12.

5 Regarding Sonoma, the Committee did agree to
6 place the Briggs site into Group 1, which means they will
7 be eligible for negotiated cost recovery. It looked to us
8 like everything was falling into place. Mr. Briggs was
9 going to provide us enough documentation that we could
10 consider his financial hardship, which would give the
11 Board some basis of how much to negotiate to do a
12 negotiated cost recovery. But I don't know how it stands
13 now. Apparently, maybe he's not going to give us that
14 documentation that he said he would. But I see Mr. Briggs
15 in the audience, and he will have a chance to speak later.

16 So with that, I guess, We can move ahead.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Mr Lee, Number 10. This was on Committee fiscal
19 consent, as Ms. Peace said.

20 DEPUTY DIRECTOR LEE: Yes. Thank you, Madam
21 Chair. And good afternoon, Board members.

22 Board Item 10 is consideration of the Grant
23 Awards for the Household Hazardous Waste Grant Program
24 13th Cycle and Remaining 12th Cycle for Fiscal Year
25 2004/2005. This item was heard by the Special Waste

1 Committee and recommended for fiscal consent.

2 This program has been used basically to provide
3 grants to local jurisdictions for collection and recycling
4 of household hazardous waste. Historically, it's been
5 over-subscribed. This year it was not. We only had
6 eligible projects that would use about three-and-a-half of
7 the four-and-a-half million dollars available.

8 Some of the reasons for that were we were back to
9 the Board in October of 2003 asking about potential ways
10 to change or re-focus the program. While in past years we
11 had e-waste as a primary focus, some of the discussion
12 among the Board members at the time was that we should
13 devote more time to under-represented communities, also
14 take a look at other household hazardous waste items for
15 consideration as opposed to kind of the exclusive priority
16 for the e-waste. And this also took into account again
17 the SB 20 considerations that were going to provide
18 additional funding for the e-waste programs. These are
19 some of the reasons for why we think the program was
20 undersubscribed.

21 However, working with our admin and our legal
22 department, we were able to work out an innovative
23 solution, given the fact that the Board had approved a set
24 of contingently eligible projects for the 12th cycle of
25 the HHW grant awards, funding being contingent on funds

1 being available.

2 Given that we were under-subscribed for this
3 cycle, we were able to reach a determination that it would
4 be permissible to recommend to the Board funding for those
5 eligible projects from the 12th Cycle.

6 So with that, staff recommends that the Board
7 approve Resolution 2004-203 and the award of \$3,416,091
8 from allocated Fiscal Year 2004/2005 funds to the 19
9 identified applicants.

10 Staff also recommends the Board approve
11 Resolution 2004-204 and the award of \$861,005 from
12 allocated Fiscal Year 2004/2005 fund to nine identified
13 eligible applicants for last year's 12th Cycle Household
14 Hazardous Waste Grant.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you,
16 Mr. Lee.

17 I see no questions, so I'm looking for a motion.

18 Ms. Peace.

19 BOARD MEMBER PEACE: I would like to move
20 Resolution Number 2004-203, Consideration of the Grant
21 Awards for the Household Hazardous Waste Grant Program,
22 13th Cycle, Fiscal Year 2004/2005, and also would like to
23 move Resolution 2004-204, Consideration of the Grant
24 Awards for the Household Hazardous Waste Grant Program
25 Remaining 12th Cycle for Fiscal Year 2004/2005.

1 BOARD MEMBER MULÉ: Second.

2 CHAIRPERSON MOULTON-PATTERSON: We have a motion
3 by Ms. Peace, seconded by Ms. Mulé, to approve Resolution
4 2004-203 and 200-204.

5 Please call the roll.

6 SECRETARY WADDELL: Marin?

7 BOARD MEMBER MARIN: Aye.

8 SECRETARY WADDELL: Mulé?

9 BOARD MEMBER MULÉ: Aye.

10 SECRETARY WADDELL: Paparian?

11 BOARD MEMBER PAPARIAN: Aye.

12 SECRETARY WADDELL: Peace?

13 BOARD MEMBER PEACE: Aye.

14 SECRETARY WADDELL: Washington?

15 Moulton-Patterson?

16 CHAIRPERSON MOULTON-PATTERSON: Aye.

17 Okay. On to Number 12. This is a Discussion on
18 Options to Modify Certain Fiscal Year 2004/2005 Activities
19 Identified in the Five-Year Plan for Waste Tire Recycling
20 Management Program and Discussion of the Biennial Update
21 Process.

22 Ms. Peace.

23 BOARD MEMBER PEACE: I just want to say before we
24 got started, the next few months will be very busy as we
25 start the biennial review of the Five-Year Tire Plan. I

1 would like to focus our tire dollars on projects that are
2 the most cost effective for tires diverted from landfills,
3 such as RAC and the civil engineering projects. Items
4 like the playground cover grants and track grants just are
5 not cost effective. There needs to be a change in the
6 scoring criteria for Fiscal Year 04/05 to address the
7 number of tires utilized and the cost effectiveness of
8 that utilization. And staff will be coming back, I
9 believe, in September with a new scoring criteria for the
10 Board to consider.

11 And as I mentioned in the Special Waste Committee
12 meeting, there are several other things I wanted to see
13 addressed as soon as possible. One was the tire manifest
14 system. As it now stands, the manifest system is much too
15 burdensome not only for the haulers, but for Board staff
16 as well. And I believe we'll be having a workshop
17 sometime within the next 30 to 45 days on that.

18 The other thing I wanted to see discussed right
19 away for the 04/05 cycle -- plan were the
20 Commercialization Grants. And we did have a workshop on
21 that last Wednesday, and staff will be coming back to the
22 Board with their recommendation in September, and also
23 address the Enforcement Grants and the RAC Tech Centers.
24 And these are the things that this agenda item will
25 address.

1 CHAIRPERSON MOULTON-PATTERSON: Mr. Lee.

2 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

3 As you mentioned, Board Item 12 is a Request for
4 Direction on Options to Modify Certain Fiscal Year
5 2004/2005 Activities Identified in the Five-Year Plan for
6 the Waste Tire Recycling Management Program and Discussion
7 of the Biennial Update Process.

8 This item was continued from the June Board
9 meeting. At the June meeting, staff discussed the lengthy
10 timelines that are involved in implementing programs and
11 projects that are currently approved in the Five-Year Plan
12 and the schedule for the next biennial Five-Year Plan,
13 which will commence in September. We also discussed
14 statutory and operational considerations that would be
15 involved in making substantive changes in current year
16 allocation, as opposed to deferring consideration of
17 substantive modifications to the biennial update process.

18 First, with regards to the three specific
19 programs where various Board members had suggested some
20 consideration of 04/05 program changes.

21 First, the Tire Product Commercialization Grant
22 Program. The Five-Year Plan allocated 1,600,000 for
23 Fiscal Year 2004/05 to fund the Product Commercialization
24 Grant Program. The Five-Year Plan stated grants will
25 target businesses that need assistance to establish or

1 extend their products to a commercialized scale.

2 (Thereupon an overhead presentation was
3 presented as follows.)

4 DEPUTY DIRECTOR LEE: At the May Board meeting,
5 the Board requested that staff hold a stakeholder
6 roundtable this summer. The workshop was held last week.

7 In general, most stakeholders felt that the Board
8 should continue to support the tire business community in
9 some fashion. There was less agreement as to what form
10 the support should take; grants, loans, or some
11 combination of the two.

12 Similarly, there were disparate opinions on
13 whether support should be focused on the established
14 businesses or on start ups and whether the focus of the
15 grant should be continued to be on molded rubber products
16 or some other tire product category. In other words,
17 there is much for staff to digest in assessing the
18 feasibility of these proposals and whether they could be
19 reasonably implemented in this year.

20 Furthermore, I want to reiterate my concerns that
21 many of the proposals are policy-level determinations
22 which historically have been deferred to the Five-Year
23 Planning process.

24 That said, and as indicated on the slide, the
25 specific staff recommendation would be to return to the

1 Board in September to receive Board direction on whether
2 any proposed changes can be implemented and should be made
3 in 04/05 or should be deferred to be resolved during the
4 biennial plan review.

5 The next item is on the local enforcement
6 program.

7 --o0o--

8 DEPUTY DIRECTOR LEE: The Five-Year Plan
9 allocated \$6 million for 2004/05 to fund the Waste Tire
10 Enforcement Program. Further, the Five-Year Plan states
11 as part of the performance measures that the Board should
12 conduct a performance review of enforcement efforts before
13 the next biennial update. However, the Five-Year Plan did
14 not specify how or what the evaluation would entail.
15 Therefore, Board staff identified three options for Board
16 discussion: Conduct an internal review, contract with a
17 consultant, or postpone any review or evaluation until the
18 Fiscal Year 2005/06 year when more data will be available.

19 As I mentioned last month, staff is capable of
20 conducting the internal review. However, we are prepared
21 to work with a third-party contractor on any evaluation of
22 the program. However, it's important for the Board to
23 note that even under the most expeditious schedule, as
24 outlined in the agenda item, results from the study would
25 not be available probably until June or later of next

1 year. Much too late, in staff's opinion, to effect the
2 04/05 grant program, which we need to initiate within the
3 next month or two.

4 Therefore, with regards to specific staff
5 recommendations on this issue, I want to again reaffirm my
6 previous comments on the staff's position as being neutral
7 on the issue of a third-party evaluation, with the
8 understanding that 04/05 budget allocations would not be
9 reduced or the program implementation delayed pending the
10 results of this study.

11 --o0o--

12 DEPUTY DIRECTOR LEE: Finally, on the Rubberized
13 Asphalt Technical Centers, the Five-Year Plan allocated
14 \$600,000 for Fiscal Year 2004/2005 to fund the Rubberized
15 Asphalt Concrete Technology Centers.

16 At its April 2004 meeting, staff presented the
17 Tech Center's Evaluation Report by Sjoberg Evashenk.
18 Based on the recommendations of the evaluation, there are
19 three main possibilities to provide RAC Program services.
20 Staff will be conducting a stakeholder roundtable this
21 summer to determine which of the recommendations -- I
22 should say receive input on which of the recommendations
23 would best fit the needs of the program. After the
24 roundtable, staff will prepare an agenda item for the
25 Board recommending the best method of delivering RAC

1 Program services based on outcomes of the roundtable using
2 04/05 funding.

3 This is one issue where staff feels we can
4 unequivocally endorse the use of 04/05 budget allocations.
5 We don't envision any options that we will be bringing
6 back before the Board that will involve policy level
7 determinations that are inconsistent with the currently
8 allocated use of these funds.

9 Therefore, staff's specific recommendation is to
10 hold a workshop, report back to the Board in the fall to
11 present information and receive direction, to implement
12 the approved recommendations utilizing the 04/05 budget
13 allocation.

14 That concludes staff's presentation.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you very
16 much, Mr. Lee. I know we had quite a discussion on this
17 in Committee.

18 Comments?

19 I have a question, but let's go ahead with Ms.
20 Peace right now.

21 BOARD MEMBER PEACE: I guess the only thing up in
22 the air is how we're going to handle the Enforcement Grant
23 situation. Staff said they are going to continue doing an
24 internal evaluation so any findings can be incorporated
25 into the 04/05 grant cycle. I think that's a good idea.

1 Go ahead and do your internal -- see if there's any
2 changes that we can make or any changes that we would need
3 to make statutorily, because we will be going back to
4 change SB 876 with the manifest system. If there's
5 something in the enforcement system that would need to be
6 changed statutorily, I'd kind of like to know before that
7 so we can add that in.

8 Staff needs to look at, is the money distributed
9 to local governments in some sort of equitable fair
10 fashion, because we only have so much money to work with.
11 And I believe you said staff can look -- I see you shaking
12 your head. Nodding his head. They will be looking into
13 that.

14 In terms of the third-party review, you said
15 there isn't really enough data you think to do one now or
16 wouldn't even be done in time to effect 04/05. When do
17 you feel like that would be a good time to start the
18 third-party review on this program?

19 DEPUTY DIRECTOR LEE: Well, as we discussed in
20 the agenda item, I think there's some reason to believe
21 that the Enforcement Program in its current form has not
22 been around for more than a year and a half that we feel
23 we have the data on. The reports are really now just
24 coming in for this year's -- from the one we put out on
25 the street last year. So, again, I'm sure the third-party

1 evaluation would collect some information. But, again,
2 staff has some questions about how rigorous their analysis
3 will be able to be, given that data.

4 BOARD MEMBER PEACE: That's what I was asking.
5 When did you think you'd have enough data to do a
6 third-party review? Maybe a year from now? What is your
7 vision of having a third-party review?

8 DEPUTY DIRECTOR LEE: I would think at the least
9 that long.

10 BOARD MEMBER PEACE: Okay. I'm in agreement with
11 that. I think the program is pretty new. Give it another
12 year. But in the meantime, do the internal one so we can
13 make sure that the state is covered in some sort of
14 equitable fashion.

15 CHAIRPERSON MOULTON-PATTERSON: Mike.
16 Mr. Paparian, did you want to comment? I think Ms. Peace
17 is finished.

18 BOARD MEMBER PAPARIAN: I had several items about
19 this item, Madam Chair.

20 On the enforcement audits, starting with the
21 internal review, there are some things I want to make sure
22 are part of the internal review. How many enforcement
23 actions have been taken with these local grants? What's
24 been the outcome of any enforcement actions taken as a
25 result of these enforcement grants?

1 I know that I've gotten some questions about the
2 vehicle purchases using these grants. If we can get some
3 data on how many cars have been purchased with these
4 grants and, you know, whether localities have been
5 continuing after they receive the cars to continue to be
6 in the grant program so they can continue to use the cars
7 for the purpose they were purchased for originally. And
8 then whether in the purchase of those vehicles they were
9 done in a way consistent with the Department of General
10 Services' directives for street vehicle purchases. They
11 have some directives that have been put in place the last
12 couple of years about the type of vehicles that can be
13 purchased.

14 And if we could also get some information about
15 how we measure the effectiveness of these grants. I know
16 that's kind of a hard one to get your hands around. It's
17 hard for me to get my hands around. But I know that one
18 jurisdiction with 2 percent of the population in the state
19 got 10 percent of the grant dollars. Or a couple
20 jurisdictions but in one single county. So maybe there's
21 a lot of tires in that area, tire problems in that areas.
22 But I think we need to be able to judge whether the money
23 is being effectively used and effectively distributed. So
24 if in the internal things you could look at things like
25 that, that would be great.

1 In terms of the possible external evaluation,
2 what I'm more interested in there is not, you know,
3 looking at exactly how the dollars have been spent, but
4 looking at some of the options that might be available to
5 us if we choose to do this a little bit differently to
6 assure fuller coverage in the state, whether there are
7 alternative ways of distributing the money or engaging
8 local enforcement officials. There's any number of things
9 you could imagine, the local D.A.'s office, to just
10 through counties, through the state District Attorney's
11 Association. I know we have a relationship there.

12 But in the end, this is the biggest environmental
13 enforcement program targeted to a particular problem, as
14 far as I know, anywhere in state government. And I think,
15 you know, we do have an obligation to assure that that
16 money is being used as effectively and efficiently as
17 possible.

18 I think the external review could begin in this
19 fiscal year, recognizing that it wouldn't impact the
20 upcoming Five-Year Tire plan. But we do have a couple
21 years under our belt. We'll have this year under our
22 belt. And then we'll have the beginning of the next round
23 of grants under our belt. If we were to start the
24 enforcement evaluation sometime this fiscal year and have
25 it available by the time we distribute our 05/06 money

1 sometime next year. So we'd have a couple years of full
2 funding availability. We'd have several years under our
3 belt. I think that would be helpful in the 05/06 time
4 frame,

5 BOARD MEMBER PEACE: So you think that's doable?

6 DEPUTY DIRECTOR LEE: I'd like to comment on a
7 couple of those things.

8 First of all, with regards to Mr. Paparian's
9 comments with regards to how we would do the internal
10 evaluation. I think all those things you mentioned are
11 already things we're looking into.

12 As I mentioned earlier, you know, our program in
13 the last couple of years, you know, our efforts have been
14 just trying to get people into the program and assuring
15 them some reasonably stable level of funding. That was
16 one of the enticements -- in fact, probably the primary
17 enticement for getting them to sign on board.

18 Now that we are -- you know, have approached
19 coverage around 60 percent and possibly will be upwards of
20 at least 70 percent next year, if we get the same level of
21 participation, we realize we need to take a hard look at
22 people that are in the program now. Again, making sure
23 it's as efficient as possible.

24 However, I do want to try and address some of
25 what appears to be the presumption that the local

1 enforcement program is inordinately expensive. I think
2 when we compare it to just other programs that are being
3 run through this agency -- the LEA, for example, you know,
4 the level of grant support the Board provides there is
5 one-and-a-half million versus the six million in the tire
6 program. But again, the one-and-a-half million does not
7 support all of the LEA's efforts. Indeed, those local
8 enforcement agencies, many, if not most, have separate fee
9 structures they use to support the statutory mandate they
10 have on them to perform those services. There's nothing
11 equivalent in the tire program. No statutory mandate, no
12 support, other than what the Board provides, you know, to
13 fund all of the various staffing, the administration, and
14 the associated equipment, if you will, and miscellaneous
15 expenditures related to that program.

16 Also, again, the size of the potential
17 enforcement pool, of the number of generators, haulers,
18 and end users, you know, numbers between probably 12 and
19 15,000. Now, we realize that not each one of these should
20 be inspected each year. But, still, there is a
21 significant size of the number of facilities and
22 generators that have to be inspected. So I guess some of
23 these considerations we don't see that the program, given
24 all it's being asked to accomplish, is inordinately
25 expensive.

1 Also --

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Lee, if I
3 might interrupt for just a moment. I believe at the
4 Committee you said we had five enforcement people for the
5 state. I mean, you know, not the local grants. But we
6 have five Board employees. Is that right?

7 DEPUTY DIRECTOR LEE: That's correct.

8 CHAIRPERSON MOULTON-PATTERSON: Has there ever
9 been any thought to having more state type enforcement
10 people rather than these local grants? I mean, do they --
11 it seems like you could get an awful lot for \$6 million.

12 DEPUTY DIRECTOR LEE: I have a couple points on
13 that, Madam Chair.

14 Number one, I believe there's something in
15 statute that I think asks the Board to give strong
16 consideration to rolling it out to the locals, as one.

17 Secondly, as I mentioned, you know, the programs
18 that are -- let me back up a minute. Doing it all at the
19 state level is something that I think looks good on the
20 surface, but our history in the Tire Grant Program is
21 that, you know, our proposals for BCPs have not received
22 favorable consideration when we put them through. So we
23 are continually understaffed, and we have to look a little
24 askance at putting forth additional proposals hoping that
25 resources are going to be forthcoming.

1 We feel that, again, using the LEA Program for
2 comparison, you know, that program we think is working
3 reasonably well. I think rolling it out to the locals
4 makes a lot of sense from staff's perspective. But we
5 want the to Board to be sensitive that we're comparing
6 apples to oranges in some respects here. And there's a
7 lot of other constraints and circumstances that surround,
8 you know, involving the locals in our particular program.

9 CHAIRPERSON MOULTON-PATTERSON: What's a typical
10 day of one of our enforcement persons?

11 DEPUTY DIRECTOR LEE: Right now --

12 CHAIRPERSON MOULTON-PATTERSON: Aren't they based
13 out of the Los Angeles office?

14 DEPUTY DIRECTOR LEE: Right now, four of the five
15 are out of the Los Angeles office. Right now, most of
16 their efforts are focused on working with the local
17 grantees to bring them up to speed, getting them trained
18 so they can perform this enforcement function, you know,
19 on our behalf.

20 So, again, a lot of the very few people that we
21 have involved in the program are trying to get this local
22 enforcement program up and running, you know, working with
23 the local jurisdictions.

24 CHAIRPERSON MOULTON-PATTERSON: Do you feel you
25 have enough from us?

1 DEPUTY DIRECTOR LEE: I'd like to get the Board's
2 consensus on whether or not they want the third-party
3 evaluation conducted this year.

4 CHAIRPERSON MOULTON-PATTERSON: No. I mean, I
5 thought we were clear that next year --

6 BOARD MEMBER PEACE: Mike, at the end of this
7 year? You're thinking the end of this year?

8 BOARD MEMBER PAPARIAN: I was suggesting starting
9 it during this fiscal year, recognizing it won't effect
10 the next Five-Year Tire Plan. But at least by the time in
11 spring of '06 when we're spending the 05/06 Tire
12 Enforcement money, it would be available so that we can
13 determine whether we want to make any changes at that
14 point.

15 BOARD MEMBER PEACE: So when would we need to
16 start that review then?

17 DEPUTY DIRECTOR LEE: We could start it, like I
18 said, probably within the next few months.

19 BOARD MEMBER PEACE: I thought you were saying we
20 didn't have enough data yet.

21 DEPUTY DIRECTOR LEE: That's arguable. Like I
22 said, staff's position was that there was some questions
23 about that. But, again, we obviously bow to the will of
24 the Board in that particular matter.

25 But on Mr. Paparian's specific proposal, the

1 contingency that we must understand with that is if we do
2 the third-party evaluation, the results won't be back
3 until June. The Board will be voting on the Five-Year
4 Plan revision in probably May or June next year. So the
5 plan will need to allow for the kind of contingency
6 Mr. Paparian is suggesting. In other words, some range of
7 costs, you know, that the Board would be happy with the
8 enforcement, say four to six million, whatever the number
9 is. And then the Board would have to, again, have a
10 contingent plan for saying where those cuts or additions
11 should come in the other programs. So it's just not a
12 simple matter of -- you know, we have to plan for that
13 contingency.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. Ms. Marin.

15 BOARD MEMBER MARIN: Madam Chair, I'd have to be
16 very respectful of the processes that have taken place
17 prior to my being on the Board. And if I understand
18 correctly -- and I'm still trying to see what is it that
19 would be so wrong that it would be perceived from a couple
20 of members here that we need to change midway. Maybe from
21 the conversation here I'm assuming a couple of things that
22 I yet don't quite understand.

23 So if I understand this correctly, we have a
24 Five-Year Plan that is mandated by statute.

25 DEPUTY DIRECTOR LEE: Yes.

1 BOARD MEMBER MARIN: Now we agreed -- somebody,
2 certainly prior to me being here, a prior Board agreed on
3 a Five-Year Plan. Every two years -- within that, every
4 two years changes need to be made or should changes be
5 made, it is reviewed on a biennial basis.

6 DEPUTY DIRECTOR LEE: That's correct.

7 BOARD MEMBER MARIN: And I would presume that
8 two years ago someone on this Board voted for that process
9 to happen, including what is happening right now.

10 DEPUTY DIRECTOR LEE: That's correct.

11 BOARD MEMBER MARIN: The next biennial review,
12 when would that traditionally take place?

13 DEPUTY DIRECTOR LEE: We'll start it -- the first
14 workshop we're planning for that will be sometime in late
15 September this year, culminating in a Board vote on this
16 plan probably May or June of next year.

17 BOARD MEMBER MARIN: So then my question, Madam
18 Chair, is, are there things that necessitate a change in
19 that review today that cannot wait until the next regular
20 cycle?

21 CHAIRPERSON MOULTON-PATTERSON: I think the
22 Board -- and I don't mean to speak for my Board members,
23 but I think some Board members feel there could be changes
24 in order. It's a totally different Board, two new
25 members, different personalities. That's my perception.

1 We don't want our hands tied. Am I correct? Right,
2 Cheryl?

3 BOARD MEMBER PEACE: Yeah. In terms of
4 enforcement, I don't think we're asking for an immediate
5 change for 04/05 right now. We just want to be sure we
6 look at it, so in the future that we know we're spending
7 the money in the most cost effective way, and getting the
8 state covered in the most cost effective way.

9 DEPUTY DIRECTOR LEE: I understand your point,
10 Ms. Peace. And like I said, from staff's perspective, we
11 can live with a third-party evaluation, like I say, at
12 least from our perspective, as long as the 04/05
13 allocation goes forward as the Board originally approved.

14 CHAIRPERSON MOULTON-PATTERSON: Okay.

15 BOARD MEMBER MARIN: Well, I just wanted to
16 follow up, because I'm missing something. And I don't
17 know what, because I usually get everything really fast.
18 So I'm missing something in that what could we do -- in
19 the absence of getting another biennial review, is there
20 something so blatant that it would appear that, in fact,
21 we're not spending the money correctly that would
22 necessitate the intervention of a review?

23 DEPUTY DIRECTOR LEE: In my opinion, no. Again,
24 as I stated in my earlier remarks, I thought some of the
25 interest in changing was because the program was perceived

1 to be inordinately expensive. And after my look into the
2 program, you know, I don't believe that to be the case.

3 You know, we are committed, you know, to
4 evaluating the program internally, you know, trying to
5 continue to refine it, to make it better, and make it as
6 cost effective as possible.

7 CHAIRPERSON MOULTON-PATTERSON: Maybe that's the
8 key. You know, we want you to just start that. And I
9 know you have started. Continue the internal -- not
10 investigation. What word am I looking for? But review.
11 Review. And I think that's where the Board is. You know,
12 it's not that we're being arbitrary about this. But my
13 feeling is that we want to have you continuing to make it
14 a better Five-Year Tire Plan.

15 DEPUTY DIRECTOR LEE: Staff is prepared to do
16 that, Madam Chair.

17 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
18 Mr. Paparian.

19 BOARD MEMBER PAPARIAN: So hopefully during this
20 process of the Five-Year Plan we could look externally.

21 I want to answer Board Member Marin's question
22 about the necessity for this. My concern has been that
23 we're spending \$6 million on enforcement. Are we getting
24 \$6 million worth of value? I'm not saying we shouldn't
25 spend \$6 million on enforcement. I want to make sure

1 we're getting \$6 million of value. If it could be done
2 for less, great.

3 The other related concern is the way the program
4 is structured and the way the grants have been coming in,
5 the grant requests have been coming in, some pretty big
6 chunks of the state are not covered by the program. If
7 you took a map of the state, you'd see big holes in it
8 where we're not able to entice the local jurisdiction.

9 And then put another way, if every jurisdiction
10 were to apply with the comparable amounts of other money,
11 we wouldn't have enough money to cover the whole state.

12 So those are things that have been concerning me
13 with the enforcement of it, why I'm hoping that at some
14 point we do get an evaluation of what some of the
15 alternatives may be.

16 BOARD MEMBER MARIN: If I may, Madam Chair. I
17 think this is a great discussion item. One of the things
18 that I would caution ourselves is that we need to give the
19 program enough time, so that while there may be specific
20 situations where a couple of entities get 10 percent of
21 the chunk of money while they're only 3 percent of the
22 population, if you will -- and that may be a very good
23 point.

24 What I think we need to do as a Board is when we
25 are going to make the next review, we need to make sure

1 that the criteria that what we agreed upon here, it's very
2 clear on very specific items. If geographic is a concern,
3 that we give the direction. What it seems to me -- and it
4 seems to me we're coming after the fact. We see
5 initially -- seems to me it's a new program in that
6 regard, that we cannot all of a sudden because we saw that
7 one entity got 10 percent when they're only 3 percent of
8 the population that all of a sudden the whole thing
9 doesn't work.

10 I think this might be a learning process. And if
11 it shows -- and if it gives us information for the next
12 cycle, that then we ensure that the criteria we set and
13 approve that it's very clear in that those gaps would no
14 longer be there.

15 I'm very sensitive, coming from a local
16 jurisdiction. We oftentimes say, well, some people really
17 get more of their pie, of the piece of the pie. But I
18 think that it's a reflection not of the program, but the
19 lack of clarity on the criteria that was developed, even
20 whether it was two years ago or of the Five-Year Plan. So
21 it is incumbent upon us as a Board to be very clear in
22 those criteria so that when the grants are given, that we
23 don't have those gaps. Madam Chair, I'm thinking that the
24 direction really has to come from the Board.

25 CHAIRPERSON MOULTON-PATTERSON: And I agree with

1 you completely.

2 And I just want to make this clear to Mr. Lee and
3 his department. I think they've done a fabulous job.
4 This is a new bill. They've done terrific things. I
5 think the Board made some mistakes along the way. And we
6 want to make it as good as it can be. This is not a
7 reflection on program or staff. I'm talking about the
8 Board -- what can I say -- majority might have made some
9 mistakes along the way. And we want to rectify those when
10 we can. So it certainly wasn't any reflection on your
11 department, Mr. Lee.

12 DEPUTY DIRECTOR LEE: I appreciate that
13 clarification, Madam Chair.

14 And, again, can I take from the Board's remarks
15 that the third-party evaluation we're going to hold that
16 in abeyance?

17 CHAIRPERSON MOULTON-PATTERSON: Well, I think --
18 Mr. Paparian, when did you want it to start? We don't
19 have time for this year.

20 BOARD MEMBER PAPARIAN: I'll talk to the Chair of
21 the Special Waste Committee. And maybe as this process is
22 going along, we can come up with something. I recognize
23 the Board is not quite ready to go forward with a
24 commitment at this point so --

25 BOARD MEMBER PEACE: Staff, I think, right now is

1 doing an internal review.

2 DEPUTY DIRECTOR LEE: That is correct.

3 BOARD MEMBER PEACE: It was my concern that 78
4 percent of that \$6 million was only covering 59 percent of
5 the population of the state. It did seem like there was
6 areas, like Fresno, that were getting a substantial amount
7 of money compared to bigger jurisdictions, like L.A. So
8 we need to look at that whole picture.

9 I don't know -- apparently there wasn't any kind
10 of formula or criteria. I know the LEA grants use a
11 formula. And it seems to me by looking at this there
12 really didn't seem to be any kind of formula for who got
13 what amount of money.

14 DEPUTY DIRECTOR LEE: In the criteria item for
15 the local enforcement grants, which we'll be bringing back
16 to you probably in September, we're going to be looking at
17 some formula consideration to try to identify some of
18 these identified geographical gaps.

19 But, again, I want the Board to understand and
20 appreciate that, again, when you consider the number of
21 facilities that are out there and if you put any
22 reasonable number on the number of hours that might be
23 involved in doing just a single inspection, that clearly
24 we don't have enough money, even at 6 million, you know,
25 to literally cover every portion of the state and every

1 facility. So there's going to have to be some
2 prioritization.

3 Heretofore, like I say, we were just trying to
4 get anybody reasonable into the program. We know we have
5 to refine that. But, again, I want the Board to
6 understand that whether or not we cannot ever assure we've
7 got complete 100 percent coverage for all facilities in
8 all geographic areas, it's probably not going to happen
9 with the \$6 million budget we're looking at and maybe a
10 budget that might be less.

11 CHAIRPERSON MOULTON-PATTERSON: I think the
12 members are clear on that. Thank you, Mr. Lee.

13 Let's move on to Item Number 13.

14 BOARD MEMBER PAPARIAN: Madam Chair, I'm sorry.
15 I have one more thing on this item.

16 CHAIRPERSON MOULTON-PATTERSON: I'm sorry.

17 BOARD MEMBER PAPARIAN: On a separate topic from
18 the enforcement. In the back of the item is the time line
19 for revising the Five-Year Tire Plan. And it may just be
20 because it's such a short graph right there. But I want
21 to make sure of a couple things. There's been a lot of
22 public scrutiny and a lot of legislative scrutiny on the
23 Tire Program. I think if the Used Oil Program felt like
24 they weren't getting enough of the spotlight, I think the
25 Tire Program probably feels like they're getting too much

1 of a spotlight at times.

2 DEPUTY DIRECTOR LEE: Amen.

3 BOARD MEMBER PAPARIAN: I think one of the things
4 I want to be sure in the Five-Year Tire Plan is the Board
5 really has ownership of that and the Board is very
6 actively involved. So my suggestion would be that this be
7 done under the osmosis of the Special Waste Committee.
8 Any of the workshops, public meetings be part of the
9 Special Waste Committee. Not necessarily their regular
10 monthly meetings, but when a workshop is held, it's a
11 Special Waste Committee workshop. And any Board member
12 could attend and participate in the questioning and so
13 forth that might take place. And also that there be a
14 little bit more frequent update to the full Board in
15 meetings like this one for update and possible direction
16 in terms of development of some of the proposals within
17 the Five-Year Plan.

18 CHAIRPERSON MOULTON-PATTERSON: I know I can
19 speak for the Chair of Special Waste, and that's why I
20 choose her. I think we're going to have some great
21 discussions. And, you know, Special Waste is really going
22 to be even more in the spotlight.

23 And I'll let you speak for yourself, Cheryl.

24 BOARD MEMBER PEACE: When I met with Mitch
25 yesterday, I brought up some of those same concerns that

1 we do this out in the open and at a Committee meeting.

2 And I believe Mitch said they're already planning to do
3 that. So I was very happy about that.

4 DEPUTY DIRECTOR LEE: That is correct. Staff
5 does not have any problems or objections to Board Member
6 Paparian's suggestions.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

8 Then we'll move on to Agenda Item 13 on the Beebe
9 and Valley Ford, Briggs, waste site tire site to see if
10 they meet the criteria. We heard this in Committee.

11 Mr. Lee.

12 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

13 Item 13 is Consideration of Whether the Wilson
14 Beebe and Valley Ford, Briggs, Waste Tire Sites Meet the
15 Criteria for Negotiated Remediation and Update on Progress
16 at all Sonoma Waste Tire Sites Toward Meeting Conditions
17 for Negotiated Remediation.

18 There are two components to this item. First,
19 there is a consideration item for the Board to determine
20 whether the Beebe and Briggs sites have made a sufficient
21 showing that they are eligible for treatment similar to
22 that being afforded the Group 1 sites considered at the
23 July 2003 Board meeting.

24 The second component relates to the issue of
25 negotiated cost recovery. As we presently understand

1 things, there is one site, the Briggs site, that is
2 requesting this Board address this issue at this time.
3 And, thus, Mr. Briggs would like to make his case to the
4 Board, if this Board votes him into Group 1.

5 With that preview, I'd like to turn it over to
6 Albert Johnson, who will make the staff presentation.

7 CHAIRPERSON MOULTON-PATTERSON: Mr. Johnson, good
8 afternoon.

9 MR. JOHNSON: Good afternoon, Madam Chair and
10 members of the Board.

11 This item involves two the Sonoma waste tire
12 sites. And, historically, waste tires were used for
13 erosion control in the Sonoma area starting sometime in
14 the 1940s and continuing on up to the 1980s. The two
15 sites that are in this item, I think the tires were
16 deposited or used for erosion control probably in the late
17 '60s and into the '70s those tires were placed.

18 Last July, the Board heard an item that involved
19 the eight Sonoma waste tire sites. At that meeting, the
20 sites were put into three groups. There was five sites
21 put into Group 1, one site in Group 2, two sites in Group
22 3. The Briggs site and the Wilson Beebe site that this
23 item deals with were placed into Group 3 at that time.

24 The Group 1 sites were -- the criteria to meet
25 Group 1, one of the items was that the Resource

1 Conservation District or some other governmental agency
2 had recommended the placement of the waste tires for
3 erosion control. With the Group 1 sites, all of those
4 sites were also in the South Sonoma County Resource
5 Conservation District.

6 The Group 3 sites at that time it was unclear
7 whether or not the Resource Conservation District had
8 given them permission to place the tires or recommended
9 the placement of the tires because they were in the Gold
10 Ridge Resource Conservation District.

11 Since the Board meeting last July, we received
12 two letters, which are attached to the agenda item. One
13 from the Gold Ridge Resource Conservation District, and
14 one from Mr. Briggs that indicate they did recommend the
15 placement of the tires. In fact, one of the letters also
16 discusses moving the site from a Group 3 site into a Group
17 1 site.

18 The Group 1 sites involve the property owner
19 obtaining all the permits, dealing with the environmental
20 issues, the design for an erosion control plan after the
21 tires are removed, and the implementation of construction
22 of the erosion control measures that will be put into
23 place. And as part of being in the Group 1 site, the
24 Board would then remove the waste tires and just get rid
25 of them.

1 The key item being in a Group 1 site is they have
2 the opportunity for negotiating cost recovery, which the
3 Board will consider what portion of the tire removal that
4 the property owner will pay.

5 Recently, we've received an erosion control plan
6 for the Briggs site. They're working on getting the
7 permits to complete the work. Possibly late this summer
8 or this fall we'll be able to go out and remove the tires
9 from the Briggs site. And you know the site may be
10 cleaned up this year.

11 Board staff recommend that the Board adopt
12 Resolution Number 2004-205 and give the Group 3 sites
13 Group 1 status in which they'll have negotiated cost
14 recovery.

15 Do you have any questions at this time?

16 CHAIRPERSON MOULTON-PATTERSON: I don't believe
17 so. We have a number of speakers. And thank you,
18 Mr. Johnson.

19 Ernest Briggs, rancher, landowner. Mr. Briggs.
20 I don't know if you wanted these in any order. It's fine
21 with me if you do. Just start with Mr. Briggs.

22 MR. BRIGGS: Thank you, Madam Chair. And thank
23 you, Board directors, and I want to thank the staff, Mr
24 Fujii and Mr. Johnson and Mr. Levine. These gentlemen
25 have all helped us a great deal. I want to thank the Gold

1 Ridge staff and also want to thank Leandra.

2 CHAIRPERSON MOULTON-PATTERSON: Just a little
3 closer to the mic. Thanks.

4 MR. BRIGGS: I want to thank Leandra and her
5 staff, because as you folks know, this has been a long
6 process.

7 Everyone up there has a responsibility. And we
8 out here have our responsibility. And we've agreed we
9 want to go ahead with this to clean up these tires.

10 I feel that the Gold Ridge District at the time
11 felt very concerned about the erosion control. We tried
12 everything we could think of.

13 Two of your Board members, Mr. Washington and
14 Ms. Marin, thankfully come out and actually put their feet
15 on the project. They could see what the tires were there
16 for. I feel they accomplished their job. You can ask
17 them. You can ask Mr. Fujii, Mr. Johnson. They've been
18 there many times.

19 We have a good staff. They've been through this
20 for many years trying to help erosion. Not many of us
21 understand that, what erosion can do, what it costs, and
22 all the ramifications. We have water quality. We have
23 fish and game. We have all these actors in this big
24 picture. And we, as landowners, respect that.

25 But also, we have to be able to do our job to

1 feed our families and to do what is necessary to go on,
2 and we've tried to do that. I think those participating
3 and coming out and look at the ranch could see the items
4 that we put in. We put in new covers. We put in
5 crosswalks. We put in fences. We tried to do this at our
6 expense. Some of it was helped through the districts.
7 But the majority of that expense was borne by the
8 landowner.

9 Then we put the tires in place. The law was
10 changed. And all of a sudden they say we have an
11 abatement and cleanup order. So how would you feel? How
12 would you feel when you tried your best to control the
13 erosion, and all of a sudden, you have to take those tires
14 out, have no choice. Have no choice. You have to go take
15 them out.

16 Okay. We're ready. Hopefully, you folks are
17 ready. And I really need some assistance. I asked
18 Mr. Levine about the lien on the property, where the money
19 is going to come from. The Gold Ridge District is trying
20 to help and relieve some of the pressure, the hardship
21 that it's going to take to cover the costs of the erosion
22 control project.

23 My family has been there, my wife's family has
24 been there since 1864. This permit process has cost us
25 considerable amount of money. We've done that. We have

1 the plans ready to go. They say the plans on our part of
2 that is going to be somewhere in the neighborhood of
3 around \$300,000. And when you're running a cattle
4 operation, you have an income once a year on the calves
5 that you sell based on what the market prices are. That's
6 pretty slim pickings.

7 They asked me what part am I personally involved
8 in participating in the cost. I said, well, that's fine.
9 I have an IRS lien on the property from the death of one
10 of my family. They're first. Mr. Levine said he would be
11 second.

12 But then I asked him the question, how do I
13 borrow money? You people put these liens on my property,
14 the bankers don't like that. They say well, fine. But I
15 mentioned that I have my cattle, which are about 200 head,
16 and I'd be willing to mortgage those based on what the
17 bank evaluates them at. I don't know what they'll
18 evaluate them at. But whatever it is, I'm willing to use
19 those funds to help do my part in correcting the
20 situation.

21 So I'm trying to point out my responsibility.
22 Hopefully, now you will clear up your side on how I'm
23 going to participate in recouping some funds or asking you
24 to help me, assist me, hardship, whatever you want to call
25 it to complete this program.

1 And I want to thank the Board. I want to thank
2 the staff, and I want to thank my people for this
3 opportunity and thank you very much.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

5 Ms. Peace.

6 BOARD MEMBER PEACE: When we consider giving out
7 the public money, we need to exercise due diligence. And
8 I was wondering, we had asked you for certain documents at
9 the Committee meeting --

10 MR. BRIGGS: Yes, ma'am. I furnished that
11 information, but they didn't feel it was satisfactory.
12 And that kind of hurt me. I have the information here.
13 If the Board would like to sit down and go over that
14 information with me, fine. I gave them three years.

15 They weren't -- you know, I wanted to have this
16 information here before today so you could have it. But I
17 was informed that I wasn't giving you the information you
18 needed. That really bothered me, because I wanted to get
19 that information to you as fast as I could. I got the
20 information together. And I had it faxed to them and they
21 said, "No, that's not good enough." And that's really
22 hurtful. Because I'm the landowner. I know what's going
23 on there. And I gave you the best facts that I could at
24 that time.

25 Sure, I don't want to go the jail to that. They

1 said, "Well, you didn't sign it." Hey, this was on the
2 spur of the moment. Now, if you want to get into the
3 nitty-gritty of this, I'm going to have to hire a lawyer.
4 I have to get me accountants together. But I'm willing to
5 sit down with the Board and discuss this.

6 But I didn't think that was a fair judgment of
7 what I had sent to you. I sent you my Social Security. I
8 sent you my tax -- what it costs me for my taxes. I sent
9 you what it costs me to cover my IRS obligations. I sent
10 you what my equipment costs were, the valuation of the
11 land. I sent you copies of my tax -- what the tax
12 assessor sends me. I tell you how much I pay. I've done
13 all this. Now I don't know how much more I can do.

14 CHAIRPERSON MOULTON-PATTERSON: Well --

15 BOARD MEMBER PEACE: Did you give us your last
16 three years of tax returns?

17 MR. BRIGGS: I did not give you the last three
18 years of tax returns. I gave you profit and loss, a
19 picture -- a picture, a frame of what my cattle are, what
20 my expenses are, and that's what I gave you. Okay.

21 CHAIRPERSON MOULTON-PATTERSON: Mr. Briggs, we'll
22 be discussing this in closed session and looking, because
23 we haven't seen it. And --

24 MR. BRIGGS: I understand.

25 CHAIRPERSON MOULTON-PATTERSON: And I understand.

1 But we really need to do that in closed session, I
2 understand. So we'll go on.

3 BOARD MEMBER PEACE: Can I ask you one more
4 questions. How many acres do you have?

5 MR. BRIGGS: There's a little over a section.

6 BOARD MEMBER PEACE: How many acres are in a
7 section?

8 MR. BRIGGS: 640.

9 BOARD MEMBER PEACE: Thank you.

10 MR. BRIGGS: Madam Chair?

11 CHAIRPERSON MOULTON-PATTERSON: Yes.

12 MR. BRIGGS: When your Board members came out,
13 they saw the ranch. It's pretty easy to think, you know,
14 my God, this place is worth all this money if I go to sell
15 it. But I don't want to sell it. I have a family. And I
16 have grandchildren. I don't want to sell it, you see.
17 And that's a false impression.

18 And that's why I sent you the information I did
19 about the assessed value. You're trying to make a living
20 on this property. You're paying the county \$10,000 a
21 year. You're paying the IRS \$15,000. That's \$25,000,
22 just before you even get out of bed, you know. And we
23 don't make that kind of money. You see, it's not a
24 business like a tire business or something like that where
25 you can just charge whatever you want for a set of tires

1 and the people want to pay for it, fine. It don't work
2 that way. Thank you very much.

3 CHAIRPERSON MOULTON-PATTERSON: I understand.

4 Thank you. No one wants to have this cleaned up more than
5 I do. My term is over in December. So I want this to get
6 going.

7 MR. BRIGGS: Hopefully, you and I can smile
8 together.

9 CHAIRPERSON MOULTON-PATTERSON: Ms. Marin.

10 BOARD MEMBER MARIN: Madam Chair, I just want to
11 let you know that, in fact, I did go to the site, and not
12 understanding and not knowing everything about erosion
13 control and how all of that works. I wanted to see it for
14 myself.

15 It was very, very clear to me that, unlike other
16 pictures that I have seen of tires that are piled up,
17 piled up, mountains of tires, that, in fact, the way, at
18 least from my uneducated perception about erosion control
19 and so forth, it seemed to me that those tires were placed
20 for a very specific purpose. And when you're standing on
21 the ground and you see how the water would come if those
22 tires were not in place, I could see how even the cattle
23 and the property where he lives could be in jeopardy of
24 becoming completely and totally blown away or flooded
25 away, things of that nature.

1 It was a very -- I expected something totally
2 different. I expected a mountain of tires there. That's
3 not what's in there. And it is -- I know that when those
4 tires come out, something else needs to come in its place.
5 Otherwise, I can see where we would have an even bigger
6 problem than what we have right now.

7 CHAIRPERSON MOULTON-PATTERSON: Right. And I
8 believe all of us have been out to some of these sites.
9 And it is, seeing is believing. So thank you.

10 BOARD MEMBER MARIN: And so I know that we will
11 go into closed session. I believe this gentleman to be an
12 honest man. I don't think he's pulling -- and I'm usually
13 pretty good at telling who's telling the truth and who is
14 not. I believe that this man is an honest man. And he's
15 telling us what the truth is of his situation and why the
16 tires are even there. For what that may be worth, Madam
17 Chair.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you.

19 Mr. Paparian.

20 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

21 And I didn't sit through most of this discussion
22 in the Committee meeting. I wasn't on this Committee. So
23 just bear with me for a second.

24 As I understand it, Mr. Briggs believes he has
25 provided us the adequate financial information for

1 whatever our needs are going to be. But our staff at this
2 point feels that we don't have that financial information.
3 Could somebody just clarify for me what it is that we want
4 that Mr. Briggs may be not providing or has he provided
5 now what we need?

6 MR. LEVINE: Mr. Paparian, Steven Levine, Staff
7 Council for the Waste Board. This is part of a series of
8 ongoing negotiations that have gone on in recent weeks on
9 this issue.

10 On July 1st, I believe, we sat down with
11 Mr. Briggs' representative of the Resource Conservation
12 District and explained that based on the July 2003
13 resolution of this Board, all property owners that are
14 given Group 1 status will be afforded negotiated cost
15 recovery.

16 However, in this instance, there has been a
17 request on behalf of Mr. Briggs by the RCD to make that
18 negotiated cost recovery -- they said zero, but obviously
19 as close to zero as possible. And on behalf of the Board,
20 staff have represented to the representative to Mr. Briggs
21 that financial considerations could have an impact in
22 getting whatever negotiated number is lower. I mean, all
23 these people have properties that have value. But if
24 they're technically property rich and cash poor, that
25 could be an incentive.

1 And on July 1st, we advised the representatives
2 that there are generally commonly accepted methods of
3 showing financial means, one especially for resolution of
4 disputes, which is a little more lax than if you're
5 actually trying to decide on a loan amount and having to
6 really look at the property from a loan aspect. But for
7 resolving disputes, it's a commonly accepted thing for an
8 entity to consider tax returns as an indication of
9 financial condition. And we advised them at that time and
10 we requested that they consider that.

11 And also a second issue that would be helpful is
12 an asset declaration, a statement of all assets and all
13 liabilities so that we can get -- obviously, they're going
14 to have property, but the idea of property rich, cash
15 poor. We requested they consider that and come back to
16 the Committee meeting last Wednesday and hopefully give us
17 those documents so this Board would have an opportunity
18 with its financial people to review that prior to today.

19 They came to the Committee meeting. They did
20 have, as Mr. Briggs has represented, profit and loss
21 statements. And I believe that a package including those
22 statements were e-mailed to Cheryl Peace and I believe it
23 was then distributed to the Board, that particular packet
24 of financial information. That financial information
25 consisted of just one schedule from the tax returns,

1 profit and loss statements.

2 We then wrote a letter to Mr. Briggs and his
3 representative reaffirming what we had talked about before
4 and that, in fact, at the Special Waste Committee meeting
5 Chair Peace specifically said, "When you provide us the
6 package, will we have three years of tax returns?" At
7 that point at the Special Waste Committee meeting,
8 Mr. Briggs said yes. But the materials that were provided
9 two days later were not complete, the package. It was
10 just the schedules.

11 We wrote back -- this Board has the discretion to
12 do what it wants. I wrote back saying this Board has
13 professional obligations in this matter to consider
14 generally accepted methods of showing financial condition,
15 and the two that were discussed and the one that was
16 agreed to at the Committee meeting has not been provided.
17 And we left it at that.

18 BOARD MEMBER PAPARIAN: So we don't have the tax
19 returns, and the asset declaration is not in the form you
20 feel would be an asset declaration?

21 STAFF COUNSEL LEVINE: The asset declaration --
22 let me rephrase. A sworn asset declaration. A sworn
23 asset declaration is signed under penalty of perjury. I
24 personally had a discussion with Mr. Briggs on this. He
25 goes, "What if I'm missing a thing here or a thing there?"

1 Put in a caveat. Say that, you know, to the extent given
2 my limited time, these are substantially my assets. I may
3 be missing some little things, but nothing major is being
4 missed here. And then sign that under penalty of perjury.

5 We do not have a sworn statement asset
6 declaration. We do not have the full tax returns. We
7 have profit and loss statements from the returns which
8 should indicate -- I acknowledge it indicates with respect
9 to his cattle business, he's not doing gang busters in his
10 cattle business. But as far as what the rest of the tax
11 returns would show, we don't know.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you. And
13 the Board will be taking all of this into consideration.
14 You have my assurance.

15 Leandra Swent.

16 MS. SWENT: Good afternoon, Madam Chair and
17 members of the Board. I appreciate this opportunity to
18 speak again. And for those of you who don't know me, I'm
19 Leandra Swent. I'm the District Manager of Southern
20 Sonoma County Resource Conservation District. I do
21 usually represent the other Sonoma County sites, but I
22 have been asked by Mr. Briggs and Gold Ridge Resource
23 Conservation District to be here on his behalf.

24 I know most of you know the history of these
25 sites. Some of the new Board members may not know. I'm

1 going to try to go over it shortly, some of the history
2 that I think is imperative when you go into this closed
3 session.

4 As people have indicated already today, this was
5 a recommended practice for the farmers to use tires for
6 erosion control. And it did occur prior to 1992 when the
7 law was passed that made it illegal to stockpile tires on
8 private property without a special permit.

9 So in 1992 when this law passed, suddenly these
10 farmers who had used these tires in good faith and for
11 erosion control became criminals under the law. And they
12 have been treated thus for the last ten years, twelve
13 years in some instances. And for them, that's been a very
14 difficult way to live.

15 They have a Cleanup and Abatement Order some of
16 them on their properties that have been on their
17 properties for over ten years. They are unable to get
18 loans to continue their operations with those Cleanup and
19 Abatement Orders on their property. They can't sell their
20 properties because of the Cleanup and Abatement Order
21 where the question of the cleanup is unknown, undetermined
22 and could be very expensive, as we've seen in the Briggs
23 site. It's now estimated at a total of \$900,000. So
24 these landowners have been in a state of jeopardy for at
25 least ten years, some of them. And we're all really ready

1 to move forward, I think, and see this problem solved and
2 get these tires out.

3 The Briggs site even, you know, unfortunately is
4 not one of my sites. I'll love to see one of my sites
5 going forward that we've been working on for so many
6 years. This is the easiest one to move forward with
7 because of the permitting issues. There are no endangered
8 species on this site. So it will move forward faster
9 through the permitting process than the other sites.

10 As staff has indicated, we sent to you an
11 estimate of the restoration costs, which are approximately
12 \$290,000. Your construction company, I gather, has said
13 that the removal of the tires is approximately \$600,000.
14 Those are both estimates. And, you know, because of the
15 condition of the tires and the location, until we get into
16 those sites, we're not really going to know what the
17 restoration cost is or what the removal is. The estimate
18 of 300,000 tires in the site is just that, an estimate.
19 Until we start digging in there, we won't know what the
20 cost is going to be.

21 So I also want to point out that over the years
22 when these -- prior to 1992 when these landowners took the
23 tires, they were actually creating a win-win situation for
24 the residents of California. They diverted a waste -- a
25 large waste, it appears, from the waste stream.

1 San Francisco residents were sending their tires off to
2 what was basically the unknown land. Sonoma County was
3 unknown to San Franciscans at that point. And it was
4 agricultural. Just send our tires off, and we don't have
5 to worry about them.

6 So the farmers were taking these tires, diverting
7 them from the waste stream, and at the same time
8 preventing pollution to the waterways. That was a win-win
9 situation then. And if we can get these tires cleaned up
10 again, it's going to be a win-win situation for the
11 residents of California.

12 We will, of course, abate the possible tire fire
13 hazard, which we're all concerned about and the mosquito
14 issue, and at the same time continue to clean up the
15 waterways. The rivers -- both rivers that we're talking
16 about on these properties in Sonoma County are listed.
17 They're 303(d) listed, which means they are impaired for
18 sedimentation, so they're very closely watched by the
19 Regional Water Quality Control Board.

20 So having said all of that, I really urge you to
21 go into closed session and consider cost recovery. Of
22 course, I'm going to ask you for zero. I think that the
23 \$290,000 that Mr. Briggs or the RCD through grants is
24 going to have to put forward is quite a sizable chunk in
25 this cleanup and restoration. And I would love to see you

1 go forward with this today and agree to a zero cost
2 recovery.

3 Thank you very much. Are there any questions?

4 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

5 BOARD MEMBER PEACE: Leandra, were you ever able
6 to find anything, minutes from a meeting, or directive,
7 anything in writing from the RCD that showed that, yes,
8 this was -- using tires for erosion control was an
9 accepted practice? You know, something that said, yes, go
10 out and use tires for erosion control?

11 MS. SWENT: We have searched high and low for
12 anything that was written down.

13 One thing I have -- and I know your staff has
14 seen this over the years, and it's not really minutes.
15 But one of the Board members -- one of the things you need
16 to understand is back in this time there was no staff for
17 the Resource Conservation District. It was only a Board.
18 And that Board directed their information to the Federal
19 Government, the Soil Conservation Service. And we are the
20 liaison for that federal agency, and we ask for them to
21 bring in certain programs.

22 At that time Truman Silaci, who is Mr. Silaci's
23 father, was on the RCD Board. And he had tried three
24 times to stop the erosion on his property. These are
25 highly erodible soils throughout this portion of Sonoma

1 County, and he had done -- three different years in a row
2 he had done different projects to try to stop it, and it
3 wouldn't stop.

4 At the Board meeting, they discussed it, and he
5 decided to go forward with using tires because other
6 people had done it. We do have a letter from him stating
7 that. It was written by him probably in, I think, 1992 or
8 1993, shortly after they were served with the Cleanup and
9 Abatement Order.

10 We have tried diligently to find any information
11 from any records, and we have not been able to find
12 anything. This was a situation -- as I said before, it
13 was like the boonies for San Francisco. Sonoma County was
14 strictly farmland. People did everything on a handshake.
15 Staff would have gone out there and said, "This is what's
16 recommended right now, and if you want to get the tires,
17 here's the people who are delivering them." And it would
18 have been a handshake and a walk away.

19 CHAIRPERSON MOULTON-PATTERSON: Ms. Marin.

20 BOARD MEMBER MARIN: Yes. And that was one of
21 the things that I was very -- one my questions to them was
22 whether there was any money that was made receiving tires,
23 you know, even for erosion control. And my understanding
24 is Mr. Briggs, they never did. This was not like other
25 sites where people were paying to dump tires. He has not.

1 They did not. When that happened, they were looking for
2 tires to be dumped in, but there isn't any incentive
3 there, monetary incentive. I don't think at that time
4 tires were a high commodity use out tires.

5 So it's interesting that he neither received
6 money, and now he's going -- it's going to cost to get
7 them out. So it's another interesting little financial
8 factor there.

9 MS. SWENT: When the tires were brought on to his
10 property, he even had to hire staff to move them into the
11 appropriate locations. Because they brought them on to
12 the property and dumped them into a pile, and then he went
13 and located them in the areas where there was erosion
14 issues. So he had his own people do that.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you very
16 much.

17 And we have Robert Swift, Sonoma County LEA,
18 followed by last speaker Karen Gerbosi, Beebe Family
19 Ranch.

20 MS. SWIFT: Good afternoon, Madam Chair and Board
21 members. I'm Bob Swift and I'm the Sonoma County LEA.

22 First of all, I'd like to voice my support for
23 placing the Briggs tire site in Category 1 and also voice
24 my support for the CIWMB, RCD, and properties owners'
25 efforts to come to an equitable negotiated cost recovery

1 to abate this waste tire problem.

2 I first became aware of waste tires in Sonoma
3 County eleven years ago in response to the citizens'
4 complaint in which I went out to the Silaci site and saw a
5 large accumulation of waste tires.

6 That is now my first priority as the LEA and
7 representative of environmental health was to abate the
8 threat to public health, safety, and the environment that
9 these waste tires represent as potential waste tire fire
10 and mosquito breeding habitat and the cost of cleanup, if
11 these tires should catch on fire. However, as I learned
12 more in talking with the property owners and RCD, I
13 learned more about why these tires came to be on these
14 properties and what they were intended for.

15 The importance of agriculture in Sonoma County
16 cannot be over emphasized. It's the bedrock of Sonoma
17 County. Back in the '50s and '60s, that's what Sonoma
18 County was, is agriculture. And ag is still very
19 important to Sonoma County.

20 At the time these tires were placed, these were
21 an agricultural best management practice for erosion
22 control and slope stability. And this was prior to the
23 enactment of state laws and the adoption of state
24 regulations.

25 Farmers and ranchers used these waste tires for

1 beneficial reuse based on the recommendation of the
2 authorizing regulatory agency, which was the U.S.
3 Department of Agriculture Soil Conservation Service. And
4 as it's stated in your Board agenda packet, they were
5 responsible for "the adoption of conservation practices,
6 best adopted to save basic resources, the prevention and
7 control of soil erosion, and erosion stabilization."

8 Consideration of the appropriate and equitable
9 cost recovery is critical in your consideration. I hope
10 you consider the following: That these tires were placed
11 on ag land -- active agricultural land prior to the
12 enactment of waste tire laws and the adoption of waste
13 tire regulations to control erosion control and slope
14 stability at the recommendation of the U.S. Department of
15 Agriculture Soil Conservation Service.

16 At one time, single-walled underground fuel tanks
17 were the industry standard. Eventually, these were found
18 to be leaking. And, oftentimes, the regulatory
19 authorities recommended abandonment. Subsequently, with
20 the discovery of soil and groundwater contamination,
21 remediation efforts were found to lead to financial
22 hardship to the property owners. And a cleanup fund was
23 rightfully established to remediate the contamination and
24 to help the property owners with the undue financial
25 hardship they were facing.

1 I hope that the Board will -- in the same
2 standards of fairness and goodwill and consideration shown
3 to these property owners of underground storage tanks will
4 consider how these waste tires came to be in Sonoma County
5 as legacy waste tire erosion control sites. And it's
6 just -- as a resident of Sonoma County, it's critical not
7 to lose the Sonoma County small family farm for
8 implementing what at the time was the best management
9 practice that was, in fact, at this time. And thank you.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you,
11 Mr. Swift.

12 Any questions for Mr. Swift before we go on?
13 Thank you.

14 Karen Gerbosi, Beebe Family Ranch.

15 MS. GERBOSI: The first thing that I want to
16 clarify -- well, I'm Karen Gerbosi. And my brother and my
17 sister and I own the Beebe Family Ranch. And in the
18 agenda item, it says -- there's another property that's
19 the Wilson Beebe site. I just want to clarify for those
20 of you that are new to the Board that Wilson Beebe is my
21 uncle. That's not our ranch. That's another ranch. Just
22 happens to run in the family that we have tires on our
23 property. But I'm not speaking about Wilson Beebe. I'm
24 speaking about the Beebe Family Ranch, which is south and
25 east of Petaluma, and the other property is out west.

1 CHAIRPERSON MOULTON-PATTERSON: Shouldn't that be
2 changed in the agenda item?

3 MS. GERBOSI: No. The agenda item is correct.

4 BOARD MEMBER PEACE: You're not speaking on the
5 item in the agenda?

6 MS. GERBOSI: I'm not speaking about Wilson
7 Beebe. I'm speaking about in the second half of the
8 agenda item, which is to update on the progress at all
9 Sonoma waste tire sites towards meeting the Board's
10 conditions. So I'm just here --

11 CHAIRPERSON MOULTON-PATTERSON: I see what you're
12 saying. Thank you.

13 MS. GERBOSI: Particularly for the new Board
14 members, I want to clarify there are multiple Beebes. I'm
15 sorry. We'll have to change our name or something.

16 So anyway, my brother and his sister and I own
17 the Beebe Family Ranch, which is southeast of Petaluma and
18 it's been in our family since the mid-1950s. I'm here
19 today to provide an update as suggested in the agenda
20 item.

21 In July of last year, the Board passed Resolution
22 2003-383, which established five Group 1 sites. And our
23 ranch is one of those five Group 1 sites. As guided by
24 that resolution, we subsequently received a Cleanup and
25 Abatement Order, and then we signed an acknowledgement of

1 willingness to negotiate agreement with the Board. When
2 the resolution was passed, we were already well underway
3 toward completing the wetlands delineation and biological
4 assessment for our site.

5 Since then, we've completed the wetlands
6 delineation report, submitted it to the U.S. Army Corps of
7 Engineers, and in March we received the official
8 jurisdictional determination from the U.S. Army Corps. In
9 the last several months, we've completed a detailed
10 geotechnical evaluation of our site, and our engineers
11 just recently completed the grading plan. Earlier this
12 week, the firm that we've retained to design and implement
13 our site restoration erosion control plan completed their
14 preliminary plan for that work.

15 With the completion of that plan, we are now able
16 to complete our applications for the permits we need,
17 which is a Regional Water Quality 401 and Army Corps 404
18 and a California Fish and Game 1603, and then prepare to
19 submit the CEQA checklist.

20 The Board will be the acting CEQA lead agency for
21 our project and has retained Levine Fricke to expedite
22 these functions on the Board's behalf. We've established
23 a very productive and effective relationship with Bob
24 Fujii and Albert Johnson of the Board staff. We provided
25 them with written status reports every couple months, and

1 we touch bases often with them by phone and by e-mail to
2 answer each other's questions. In addition to expecting
3 to submit our permit applications in the next several
4 weeks, we also are interviewing a construction contractor
5 to get a bid for implementing our grading plan.

6 The many steps we have completed now put us well
7 on track for the targeted removal of tires from our site
8 early next spring. We look forward to continuing
9 cooperation and partnership with the Board on this very
10 challenging project. And of course, we'd love to have the
11 new Board members come out for a site visit to our site at
12 any time you'd like.

13 Do you have any questions or requests?

14 CHAIRPERSON MOULTON-PATTERSON: I see none. And
15 thank you very much for being here.

16 MS. GERBOSI: Thank you.

17 CHAIRPERSON MOULTON-PATTERSON: So the first
18 order of business, Ms. Carter, would be to adopt the
19 resolution, and then go into closed session; is that
20 correct?

21 CHIEF COUNSEL CARTER: Yes.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. I'll take
23 a motion to approve Resolution 2004-205.

24 Ms. Peace.

25 BOARD MEMBER PEACE: I'd like to move Resolution

1 2004-205, Consideration of Whether the Wilson Beebe and
2 Valley Ford, Briggs, Waste Tire Sites Meet the Criteria
3 For Negotiated Remediation and Update on Progress at all
4 Sonoma Waste Tire Sites Towards Meeting the Board's
5 Conditions for Negotiated Remediation.

6 BOARD MEMBER MARIN: Second.

7 CHAIRPERSON MOULTON-PATTERSON: We have a motion
8 by Ms. Peace, seconded by Ms. Marin to approve Resolution
9 2004-205.

10 Please call the roll.

11 SECRETARY WADDELL: Marin?

12 BOARD MEMBER MARIN: Aye.

13 SECRETARY WADDELL: Mulé?

14 BOARD MEMBER MULÉ: Aye.

15 SECRETARY WADDELL: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 SECRETARY WADDELL: Peace?

18 BOARD MEMBER PEACE: Aye.

19 SECRETARY WADDELL: Washington?

20 BOARD MEMBER WASHINGTON: Aye.

21 SECRETARY WADDELL: Moulton-Patterson?

22 CHAIRPERSON MOULTON-PATTERSON: Aye.

23 BOARD MEMBER PEACE: I would just like to say one
24 more thing before we go into closed session.

25 I also believe that Ms. Briggs is an honest man,

1 and I would love to move forward on this cleanup project
2 as soon as possible. However, when we consider giving out
3 the public money, like what I said before, we do need to
4 exercise due diligence. And that is why we requested the
5 documents that we did.

6 Even though I believe the landowners when they
7 say that the RCD and Sonoma okayed the use of tires for
8 erosion control, I totally believe that, but I don't think
9 anyone can argue the fact that there are many more tires
10 out there at these sites than could ever be considered
11 erosion control.

12 And two, you still have to remember they are
13 still asking this Board for public money that will
14 ultimately increase their property value.

15 And then in terms of what Mr. Briggs was saying
16 in terms of a lien. He mentioned he has been at his
17 property since 1964. It's been in his family for a long
18 time. And you do realize that if we do decide to put a
19 lien on your property, that as long as the property is not
20 sold and it stays in the family, we would never exercise
21 that lien.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
23 Peace.

24 And we'll now go into closed session. We'll be
25 reporting any action when we come out, and this will be

1 the last item of the day, though, for the Board.

2 (Thereupon the Board recessed into

3 closed session.)

4 CHAIRPERSON MOULTON-PATTERSON: The meeting is

5 adjourned.

6 (Thereupon the California Integrated Waste

7 Management Board, Board of Administration

8 recessed at 5:13 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 19th day of July, 2004.

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23 TIFFANY C. KRAFT, CSR, RPR

24 Certified Shorthand Reporter

25 License No. 12277